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January 15, 2004

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SENSITIVE

MUR # 5403

Lawrence Norton
General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Dear Mr. Norton:

Enclosed for your information is a complaint we have filed today with the Federal Election Commission against the Leadership Forum

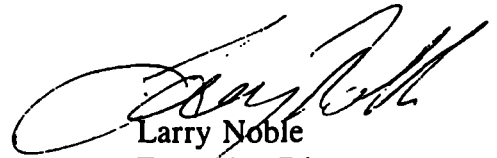
Sincerely,



Fred Wertheimer
President
Democracy 21



Glen Shor
FEC Program Director
Campaign Legal Center



Larry Noble
Executive Director
Center for Responsive Politics

OFFICE
FEDERAL ELECTION
COMMISSION

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BEFORE THE
FEDERAL ELECTION COMMISSION

Democracy 21
1825 I Street, NW, Suite 400
Washington, DC 20006
202-429-2008

Campaign Legal Center
1101 Connecticut Avenue, NW, Suite 330
Washington, DC 20036
202-736-2200

Center for Responsive Politics
1101 14th Street, NW, Suite 1030
Washington, DC 20005
202-857-0044

v.

MUR No. _____

The Leadership Forum
4123 South 36th Street
Arlington, Virginia 22206

COMPLAINT

2004-11-15
10:00 AM
10:00 AM

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1. In March, 2002, Congress enacted the Bipartisan Campaign Reform Act of 2002 (BCRA) in order to stop the injection of soft money into federal elections. The relevant provisions of BCRA were upheld by the Supreme Court in *McConnell v. FEC*, 540 U.S. ____ (slip op. December 10, 2003).

2. Since the enactment of BCRA, a number of party and political operatives, and former soft money donors, have been engaged in efforts to circumvent BCRA by planning and implementing new schemes to use soft money to influence the 2004 presidential and congressional elections. These schemes, for the most part, involve the use of so-called "section 527 groups" – entities registered as "political organizations" under section 527 of the Internal Revenue Code, 26 U.S.C. § 527 – as vehicles to raise and spend soft money to influence the 2004 federal elections. They were, as one published report noted, "created after McCain-Feingold to circumvent the ban on soft money."¹

3. In pursuing these schemes, these section 527 groups are attempting to replace the political parties as new conduits for injecting soft money into federal campaigns. As one published report has noted, several pro-Democratic section 527 groups have "stepped in this year to attempt to fill the vacuum created by the soft money ban. These groups are accepting large contributions from labor unions that the parties are prohibited from accepting....In the process [these groups] are taking over many of the functions traditionally associated with the parties, including voter registration, canvassing [and] turnout."² Another report states that

are engaged in "an outreach to urge individuals,

¹ C. Hayes, "Door by Door: Progressives hit the streets in massive voter outreach," *In These Times* (Jan. 5, 2004). (Exhibit A).

² T. Edsall, "Democratic 'Shadow' Groups Face Scrutiny," *The Washington Post* (Dec. 14, 2003). (Exhibit B).

unions and corporations that used to give their millions to the Democratic National Committee to send their largess instead to the so-called 527 committees....”³ Another report similarly noted that “a growing roster” of section 527 groups is “gathering millions of dollars of unregulated soft money for the 2004 election, to be deployed in much the same way that the party used to use soft money.”⁴ And a fourth report called these pro-Democratic section 527 groups “the heart of the big-money movement to unseat George W. Bush...These groups are, in effect, taking over the function of the Democratic National Committee, now barred by law, that once took in the much-vilified and unrestrained contributions called soft money.”⁵

4. These schemes to inject soft money into the 2004 federal elections are illegal. The Supreme Court in *McConnell* took specific note of “the hard lesson of circumvention” that is taught “by the entire history of campaign finance regulation.” Slip op. at 57. The deployment of “section 527 groups” as the new vehicle for using soft money to conduct partisan activities to influence federal elections is simply the latest chapter in the long history of efforts to circumvent the federal campaign finance laws.

5. The section 527 groups named as respondents in this complaint – including their purported “nonfederal” accounts that have been established to raise and spend soft money to influence federal elections – are in fact federal “political committees.” These section 527 groups are entities which have a “major purpose,” indeed an overriding purpose, to influence candidate elections, and more specifically, federal candidate elections, and which have spent, or are planning

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⁴ L. Feldmann, “Now it’s thunder from the left, too, in the ad war,” *The Christian Science Monitor* (Dec. 5, 2003). (Exhibit D).

⁵ J. Birnbaum, “The New Soft Money,” *Fortune* (Nov. 10, 2003). (Exhibit E).

to spend, millions of dollars for the announced purpose of influencing the 2004 federal elections. These “political committees” are therefore required to register under the federal campaign finance laws, and are subject to the federal contribution limits and source prohibitions on the funds they receive. Accordingly, these “political committees” may not receive more than \$5,000 per year from an individual donor, and may not receive any union or corporate treasury funds. 2 U.S.C. § § 441a(a)(1)(C), 441b(a). These limits and prohibitions apply to all “political committees,” including those that engage in independent spending. 11 C.F.R. § 110.1(n).

6. As noted above, this is true not just for any “federal account” established by these respondents, but also for the purportedly “nonfederal,” or soft money, accounts established by these groups. These purportedly “nonfederal” accounts themselves meet the legal definition of a federal “political committee,” since their “major purpose,” in fact, their overriding purpose, is to spend money to influence federal elections.

7.

Since the law prohibits both the direct and indirect spending of union (and corporate) treasury funds in connection with a federal election, including spending on partisan voter mobilization efforts aimed at the general public, the use of any “section 527 group” as a conduit for such indirect spending is illegal.

8. The Supreme Court in *McConnell* took specific – and repeated – note of the central role of the Federal Election Commission in facilitating past efforts to circumvent the federal campaign finance laws. The massive flow of soft money through the political parties into federal elections was made possible by the Commission’s allocation rules, which the Court described as

“FEC regulations [that] permitted more than Congress, in enacting FECA, had ever intended.”

Slip op. at 33, n.44. Indeed, the Court noted that the existing Federal Election Campaign Act (FECA), which had been upheld in *Buckley*, “was subverted by the creation of the FEC’s allocation regime” which allowed the parties “to use vast amounts of soft money in their efforts to elect federal candidates.” Slip op. at 32-33 (emphasis added). The Court flatly stated that the Commission’s rules “invited widespread circumvention” of the law. Slip. op. at 35.

9. Having been rebuked by the Supreme Court for its flawed administration of the law that allowed the use of soft money in federal elections, it is critically important that the Commission not repeat this history here. The Commission must take steps to ensure that it does not once again invite “widespread circumvention” of the law by licensing the injection of massive amounts of soft money into federal campaigns, this time through section 527 groups whose major, indeed overriding, purpose is to influence federal elections.

10. The Commission has the authority to take enforcement action based on a complaint where it finds reason to believe that a person “has committed, or is about to commit,” a violation of the law. 2 U.S.C. §§ 437g(a)(2), 437g(a)(4)(A)(i), 437g(a)(6)(A); *see also* 11 C.F.R. 111.4(a) (“Any person who believes that a violation...has occurred or is about to occur may file a complaint...” (emphasis added)). Based on published reports, the “section 527 groups” named as respondents in this complaint have either committed or are “about to commit” massive violations of the law by spending millions, or tens of millions, of dollars of soft money – including union and corporate treasury funds, and large individual contributions – to influence the 2004 presidential and congressional elections. Respondents are doing so without registering their purportedly “nonfederal” accounts as federal political committees and complying with the rules applicable to such political committees,

by impermissibly acting as conduits for

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funneling illegal union treasury funds into federal elections. As the 2004 presidential and congressional campaigns begin in earnest, it is vitally important that the Commission act effectively and expeditiously to prevent the massive violations of the law threatened by the widely publicized activities of these section 527 groups.

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The Leadership Forum

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27. On October 23, 2002, a week before the effective date of the BCRA, Rep. Tom Davis, chairman of the National Republican Congressional Committee (NRCC), was quoted as saying, "We want to make sure there are adequate conduits for our supporters to help get our message out, so we can compete with what they're doing on the other side...We're having stuff set up right now. We're making sure there are appropriate routes so that issue advocacy continues."⁴¹

The term "issue advocacy" in this context means the practice of running non-"express advocacy" candidate-specific broadcast ads supporting Republican House candidates or attacking Democratic House candidates, and paid for by soft money. Prior to BCRA, the NRCC spent millions of dollars of soft money on such candidate-specific ads. *The Washington Post* earlier had reported that

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⁴¹ A. Bolton, "Both Parties Race To Set Up New Soft-Money Mechanisms," *The Hill* (Oct. 23, 2002) (emphasis added). (Exhibit R).

Republican Party operatives, including former Representative and NRCC chairman Bill Paxon, were working to "build an organization to back GOP candidates."⁴²

28. On October 28, 2002, the Leadership Forum was established as a "political organization" under section 527 of the Internal Revenue Code. 26 U.S.C. § 527.

29. The major, indeed overriding, purpose of the Leadership Forum is to run broadcast ads and conduct voter mobilization activities designed to elect Republican candidates to the House of Representatives, and to defeat Democratic House candidates. In this regard, the Forum was set up to continue the past role of the NRCC in spending soft money to elect Republican candidates in House races. The NRCC and its representatives, which established the Leadership Forum, had spent millions of dollars of soft money on such ads and voter mobilization activities in past elections.

30. The Leadership Forum is headed by several individuals with close ties to House Republican leaders. Susan Hirschmann is the director of the Forum and was, until August, 2002, the chief of staff to Rep. Tom DeLay. Former Rep. Bill Paxon is the vice president of the forum and is the former head of the NRCC. Julie Wadler, the former deputy finance director of the NRCC, is the secretary-treasurer of the Forum.

31. The NRCC transferred \$1 million in non-federal funds to the Forum shortly before November 5, 2002.⁴³ The \$1 million soft money transfer was made from the NRCC building fund account. According to published reports, the transfer was expressly approved by several Republican members of the House, including Rep. Tom Reynolds (who is the current chairman of

⁴² T. Edsall, "New Ways to Harness Soft Money in Works; Political Parties Poised to Take Huge Donations," *The Washington Post* (Aug. 25, 2002). (Exhibit S).

⁴³ MUR 5338, First General Counsel's Report (March 27, 2003) at 9; J. Bresnahan, "NRCC Quietly Gives \$1 Million to New 527," *Roll Call* (Nov. 7, 2002). (Exhibit T).

the NRCC).⁴⁴ These funds were returned by the Leadership Forum to the NRCC after legal questions were raised about this transfer.⁴⁵

32. *The Washington Post* described the Leadership Forum as “a new GOP committee to channel soft money to House campaigns....”⁴⁶ *The New York Times* reported that Scott Reed, a Republican strategist, said that the Leadership Forum would be “the House go-to operation.”⁴⁷ According to this report, Reed added, “This is the way politics and campaigns will be run under the new law.”⁴⁸ A story in *Roll Call* said the Leadership Forum “will raise funds to defend GOP lawmakers with issue ads during the 2004 elections.”⁴⁹ A more recent story in *Roll Call* describes the Leadership Forum as “aimed at raising soft money for House campaigns.”⁵⁰ Another recent *Roll Call* story says that the Leadership Forum “is seeking corporate contributions to support GOP candidates for Congress.”⁵¹

⁴⁴ S. Crabtree, “GOP Leadership Races Heating Up,” *Roll Call* (Nov. 11, 2002). (Exhibit U).

⁴⁵ See First General Counsel’s Report, MUR 5338 (March 27, 2003) at 9-10.

⁴⁶ T. Edsall, “Campaign Money Finds New Conduits As Law Takes Effect,” *The Washington Post* (Nov. 5, 2002) (Exhibit V).

⁴⁷ D. Van Natta, “Parties Create Ways to Avoid Soft Money Ban,” *The New York Times* (Nov. 2, 2002). (Exhibit W).

⁴⁸ *Id.*

⁴⁹ J. Bresnahan, “GOP Gets Generous With Soft Money,” *Roll Call* (Nov. 14, 2002). (Exhibit X).

⁵⁰ C. Cillizza, “GOP Group Joins Soft-Money Fray,” *Roll Call* (Nov. 24, 2003). (Exhibit Y).

⁵¹ B. Mullins, “Amazon Putting Campaign Cash a Click Away,” *Roll Call* (Jan. 12, 2004). (Exhibit Z).

33. The Leadership Forum has recently intensified its efforts for the 2004 elections. A recent story in *National Journal* said that the Leadership Forum "is planning issue-advocacy efforts to help House candidates in key races."⁵² *Roll Call* has reported that the Leadership Forum has been "aggressively raising money over the past several months"⁵³ and is "now actively fundraising."⁵⁴

34. The evidence set forth above makes clear that the overriding purpose of the Leadership Forum is to sponsor broadcast ads for the purpose of promoting or supporting the election of particular House Republican candidates or attacking or opposing the election of particular House Democratic candidates and/or to engage in partisan voter mobilization activities aimed at the general public. The evidence also makes clear that the soft money being given to the Leadership Forum and put into purportedly "nonfederal" accounts is being given and will be spent for the purpose of influencing the 2004 congressional elections.

Count 1
(Political Committee Status)

35. The section 527 group respondents – including the purportedly "nonfederal" accounts maintained by these respondents – are "political committees" under the federal campaign finance law. They are entities which (1) have a "major purpose" to influence candidate elections, and in particular, federal candidate elections, and (2) receive contributions or make expenditures of more than \$1,000 in a calendar year. Because these respondents meet both parts of this test, they are federal "political committees," and are accordingly subject to the contribution limits, source

⁵² E.N. Carney, *supra* at 3806. (Exhibit P).

⁵³ C. Cillizza, "Democratic Senate Majority Fund Slows Activity As Group Awaits Decision in BCRA Court Case," *Roll Call* (Sept. 15, 2003). (Exhibit AA).

⁵⁴ C. Cillizza, "Leaders Fill PAC Coffers," *Roll Call* (Oct. 27, 2003). (Exhibit BB).

prohibitions and reporting requirements that apply to all federal political committees. Because they have not complied with these rules applicable to federal political committees, they have been, and continue to be, in violation of the law.

36. Section 431(4) of Title 2 defines the term “political committee” to mean “any committee, club, association or other group of persons which receives contributions aggregating in excess of \$1,000 during a calendar year or which makes expenditures aggregating in excess of \$1,000 during a calendar year.” 2 U.S.C. § 431(4); *see also* 11 C.F.R. § 100.5(a). A “contribution,” in turn, is defined as “any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office....” 2 U.S.C. § 431(8)(A). Similarly, an “expenditure” is defined as “any purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value made by any person for the purpose of influencing any election for Federal office...” 2 U.S.C. § 431(9)(A).

37. Any entity which meets the definition of a “political committee” must file a “statement of organization” with the Federal Election Commission, 2 U.S.C. § 433, and periodic disclosure reports of its receipts and disbursements. 2 U.S.C. § 434. In addition, a “political committee” is subject to contribution limits, 2 U.S.C. § 441a(a)(1), §441a(a)(2), and source prohibitions, 2 U.S.C. § 441b(a), on the contributions it may receive and make. 2 U.S.C. § 441a(f). These rules apply even if the political committee is engaged only in independent spending. 11 C.F.R. § 110.1(n).

38. In *Buckley v. Valeo*, 424 U.S. 1 (1976), the Supreme Court construed the term “political committee” to “only encompass organizations that are under the control of a candidate or the major purpose of which is the nomination or election of a candidate.” 424 U.S. at 79 (emphasis added). Again, in *FEC v. Massachusetts Citizens for Life*, 479 U.S. 238 (1986), the

Court invoked the “major purpose” test and noted that if a group’s independent spending activities “become so extensive that the organization’s major purpose may be regarded as campaign activity, the corporation would be classified as a political committee.” 479 U.S. at 262 (emphasis added). In that instance, the Court continued, it would become subject to the “obligations and restrictions applicable to those groups whose primary objective is to influence political campaigns.” *Id.* (emphasis added). The Court in *McConnell* restated the “major purpose” test for political committee status as iterated in *Buckley*. Slip op. at 62, n.64.

39. In *FEC v. GOPAC*, 917 F.Supp. 851 (D.D.C. 1996), a single federal district court further narrowed the “major purpose” test to encompass not just the nomination or election of any candidate, but only “the nomination or election of a particular candidate or candidates for federal office.” 917 F.Supp. at 859. Thus, the court said that “an organization is a ‘political committee’ under the Act if it received and/or expended \$1,000 or more and had as its major purpose the election of a particular candidate or candidates for federal office.” *Id.* at 862. The court further said that an organization’s purpose “may be evidenced by its public statements of its purpose or by other means, such as its expenditures in cash or in kind to or for the benefit of a particular candidate or candidates.” *Id.*

40. The district court in *GOPAC* misinterpreted the law and incorrectly narrowed the test for a “political committee” as set forth by the Supreme Court in *Buckley*. The Commission, however, failed to appeal the district court decision in *GOPAC*. Nonetheless, even under the approach adopted in *GOPAC*, the respondents here are “political committees” and are required to file as such under federal law.

41. There is a two prong test for “political committee” status under the federal campaign finance laws: (1) whether an entity or other group of persons has a “major purpose” of

influencing the “nomination or election of a candidate,” as stated by *Buckley*, or of influencing the “election of a particular candidate or candidates for federal office,” as stated by *GOPAC*, and if so, (2) whether the entity or other group of persons receives “contributions” or makes “expenditures” of at least \$1,000 or more in a calendar year.

42. Prong 1: The “major purpose” test. The section 527 respondent groups – including the “nonfederal” accounts they have established – all have a “major purpose” of influencing the election of a candidate, under *Buckley*, or of a “particular candidate or candidates for federal office,” under *GOPAC*. The respondent groups thus meet the first prong of the test for “political committee” status, under either *Buckley* or *GOPAC*.

43. First, the respondents are all organized under section 527 of the Internal Revenue Code, 26 U.S.C. § 527, and are thus by definition “political organizations” that are operated “primarily” for the purpose of influencing candidate elections. Section 527 of the IRC provides tax exempt treatment for “exempt function” income received by any “political organization.” The statute defines “political organization” to mean a “party, committee, association, fund, or other organization (whether or not incorporated) organized and operated primarily for the purpose of directly or indirectly accepting contributions or making expenditures, or both, for an exempt function.” 26 U.S.C. § 527(e)(1) (emphasis added). An “exempt function” is defined to mean the “function of influencing or attempting to influence the selection, nomination, election or appointment of any individual to any Federal, State, or local public office or office in a political organization, or the election of Presidential or Vice Presidential electors...” 26 U.S.C. § 527(e)(2) (emphasis added). The Supreme Court said in *McConnell*, “Section 527 ‘political organizations’ are, unlike § 501(c) groups, organized for the express purpose of engaging in partisan political activity.” Slip op. at 66, n.67. The Court noted that they “by definition engage in partisan political

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activity.” *Id.* at 69. A “political organization” as defined in section 527 must register as such with the Secretary of the Treasury, and must file periodic disclosure reports with the Secretary as required by section 527(j). All of the respondents in this matter have registered with the Secretary as “political organizations” under section 527.⁵⁵

44. Thus, by definition, any entity that registers with the Secretary as a “political organization” under section 527 is “organized and operated primarily” for the purpose of “influencing or attempting to influence the selection, nomination, election or appointment of” an individual to public office. The Commission has frequently cited the section 527 standard as identical to the “major purpose” prong of the test for “political committee” status. *See e.g.*, Advisory Opinions 1996-13, 1996-3, 1995-11. Accordingly, any group that chooses to register as a “section 527 group” – including each of the section 527 group respondents named in this complaint -- is by definition an entity “the major purpose of which is the nomination or election of a candidate...” Under the “major purpose” standard set forth in *Buckley*, this is sufficient to meet the first prong of the “political committee” test.

45. But even if that standard is further narrowed by *GOPAC*, each of the respondent section 527 groups in this matter has a “major purpose” of influencing the nomination or election of a “particular candidate or candidates for federal office...” 917 F.Supp. at 859.

The Leadership Forum has the “major purpose” of supporting the election of specific Republican candidates to the House of Representatives or defeating specific Democratic candidates to the House. groups have made clear that they intend to spend millions or tens of millions of dollars on partisan voter

⁵⁵ The Form 8871 registrations filed with the Internal Revenue Service by each of the respondents are attached as Exhibits CC, DD and EE.

mobilization activity aimed at the general public and/or broadcast ads that are intended to influence the 2004 presidential and congressional elections.

In the case of the Leadership Forum, its leaders and Republican House members have made clear that their overriding goal is to help elect Republican candidates to the House and/or defeat Democratic candidates. In all three cases, the section 527 group respondents have a "major purpose" to support or oppose particular federal candidates, thus meeting even the most rigorous definition under *GOPAC* of the first prong of the test for "political committee."

46. Prong 2: "Expenditures" of \$1,000. The second prong of the definition of "political committee" is met if an entity which meets the "major purpose" test also receives "contributions" or makes "expenditures" aggregating in excess of \$1,000 in a calendar year. Both "contributions" and "expenditures" are defined to mean funds received or disbursements made "for the purpose of influencing" any federal election. 2 U.S.C. § 431(8), (9).

47. This second prong test of whether a group has made \$1,000 in "expenditures" is not limited by the "express advocacy" standard when applied to a section 527 group, such as all of the respondents here. Rather, the test is the statutory standard of whether disbursements have been made "for the purpose of influencing" any federal election, regardless of whether the disbursements were for any "express advocacy" communication. The Supreme Court made clear in *Buckley* that the "express advocacy" standard does not apply to an entity, like a section 527 group, which has a major purpose to influence candidate elections and is thus not subject to

concerns of vagueness in drawing a line between issue discussion and electioneering activities. Groups such as section 527 “political organizations” are formed for the principal purpose of influencing candidate elections and, as explained by the Court in *Buckley*, their expenditures “can be assumed to fall within the core area sought to be addressed by Congress. They are, by definition, campaign related.” *Id.* The Court affirmed this position in *McConnell*. Slip op. at 62, n.64. Thus, the “express advocacy” test is not relevant to the question of whether a section 527 organization is spending money to influence the election of federal candidates.

48. The respondent section 527 groups – including all of the federal and “nonfederal” accounts they have established – have all made, or are imminently planning to make, “expenditures” in amounts far in excess of the \$1,000 threshold amount of the second prong of the test for “political committee” status. Each respondent has stated that it has made or intends to make large expenditures for the purpose of defeating President Bush, or (in the case of the Leadership Forum) supporting the election of Republican candidates for the House.

49. Some of these expenditures may be made for partisan voter mobilization activities aimed at the general public, and some may be made for broadcast advertisements that refer to President Bush or other federal candidates. In all cases, these disbursements will be made “for the purpose of influencing” federal elections, and thus constitute “expenditures” under the law.

50. Partisan voter mobilization activity is clearly intended to influence federal elections. The Supreme Court in *McConnell* said, “Common sense dictates...that a party’s efforts to register voters sympathetic to that party directly assist the party’s candidates for federal office. It is equally clear that federal candidates reap substantial rewards from any efforts that increase the number of like-minded registered voters who actually go to the polls.” Slip op. at 59. The Court further noted that “voter registration, voter identification, GOTV and generic campaign activity all

confer substantial benefits on federal candidates....” Slip op. at 60. Indeed, to qualify as an “exempt function” under section 527 of the Internal Revenue Code, a voter mobilization expenditure by a section 527 group must be partisan in nature. *E.g.* IRS Priv.Ltr.Rul. 1999-25-051 (Mar. 29, 1999). Thus, this partisan voter mobilization activity to be conducted by one or more of the respondents is, by definition, “for the purpose of influencing” a federal election.

51. Broadcast ads run by a section 527 “political organization” that promote, support, attack or oppose federal candidates are also clearly for the purpose of influencing a federal election, even if such ads do not contain “express advocacy” or are not “electioneering communications,” as defined in 2 U.S.C. § 434(f)(3)(A)(i). Because the “express advocacy” test does not apply to section 527 groups, and thus does not limit the statutory definition of “expenditures” made by such groups, all funds spent by the respondent section 527 groups to promote or support a Democratic nominee or attack or oppose President Bush, or various congressional candidates, are “expenditures” because they are being made “for the purpose of influencing” the 2004 presidential and congressional elections.

52. Leadership Forum – to date have not registered any federal account with the Commission. These two groups are presumably intending to make all of their disbursements regarding federal candidates from a purportedly “nonfederal” account funded with money raised for the purpose of influencing federal elections. For the reasons stated above, these purportedly “nonfederal” accounts are in fact federal “political committees” and should be registered as such with the Commission and should comply with federal contribution limits, source prohibitions and reporting requirements.

53.

54.

55. The Supreme Court in *McConnell* specifically and repeatedly criticized the Commission's use of allocation methodology as failing to properly implement the FECA. *See* Slip op. at 32 (noting that the FECA "was subverted by the creation of the FEC's allocation regime..."), 33 (noting under "that allocation regime," national parties were able to use "vast amounts of soft money in their efforts to elect federal candidates..."), 35 (noting that "the FEC's allocation regime has invited widespread circumvention of FECA's limits on contributions..."), 58 (noting that "FECA's long-time statutory restriction" on contributions to state parties for the purpose of influencing federal elections was "eroded by the FEC's allocation regime..."). In light

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of the Supreme Court's discussion of allocation, any use of an allocation regime in the case of ACT would be inconsistent with FECA, with BCRA, and with the *McConnell* decision, and would allow the respondents to, in the words of the Supreme Court, "subvert," "erode" and "circumvent" the contribution limits and source prohibitions of the law.

56. In theory, allocation formulae were created for organizations whose activities are undertaken to influence non-federal elections as well as federal elections. The overriding purpose of Leadership Forum, is to influence federal elections –

and in the case of the

Leadership Forum, individual 2004 House races. The evidence set forth above leaves no room for concluding otherwise. Under such circumstances, it would be absurd to apply Commission allocation regulations here, even if they may appropriately be applied in other circumstances. To allow allocation here would fundamentally undermine the BCRA soft money ban, which was intended precisely to stop soft money from being injected into federal elections. It would also make a mockery of the Supreme Court decision in *McConnell*, which explicitly labeled the allocation scheme created by the FEC as the means by which the federal campaign finance laws had been subverted. Slip op. at 32.

57. Because all three section 527 group respondents – including all of the "nonfederal" accounts they have established – have a "major purpose" to support or oppose the election of one or more particular federal candidates, and because all three respondents have spent or imminently intend to spend far in excess of the statutory \$1,000 threshold amount on "expenditures" for this purpose, the Commission should find that all respondents, including all of their "nonfederal" accounts, are "political committees" under the Act. Because the respondents have not filed a statement of organization as a political committee, as required by 2 U.S.C. § 432,

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Count 2
(Conduit for corporate and union spending)

58.

59. The FECA prohibits a labor organization or corporation from making a “contribution” or “expenditure” “in connection with” a federal election. 2 U.S.C. § 441b(a). This includes any “direct or indirect payment...or gift of money...or anything of value...to...any...organization, in connection with any [federal] election....” *Id.* (emphasis added).

60. The definition of “expenditure” excludes “nonpartisan activity designed to encourage individuals to vote or to register to vote...” 2 U.S.C. 431(9)(B)(ii). Thus, partisan voter mobilization activity in connection with a federal election aimed at the general public is included in the definition of “expenditure” and covered by the ban on the direct or indirect spending of union or corporate treasury funds for these purposes. *C.f.* 11 C.F.R. § 114.4(d).⁵⁶

⁵⁶ The FECA makes other exceptions to the prohibition on spending corporate or union funds “in connection with” a federal election, but these exceptions are not applicable here. These exceptions includes any communication “on any subject” by a corporation or labor union aimed at their respective restricted classes, *i.e.*, by a corporation to its stockholders and executive or

61. Thus, a union cannot use its treasury funds to pay for partisan voter mobilization in connection with a federal election activity aimed at the general public. Nor can a union give treasury funds to another group, such as a section 527 group, to be spent on partisan voter mobilization activities in connection with a federal election aimed at the general public. To do so would constitute "indirect" spending of union treasury funds for purposes that such funds cannot be spent directly. Such "indirect" spending of union treasury funds on prohibited activity is as illegal as the direct spending of such funds on the same activity.

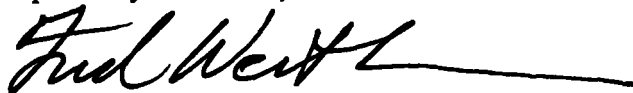
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Prayer for Relief

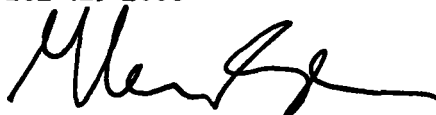
Wherefore, the Commission should conduct an immediate investigation under 2 U.S.C. §437g, should determine that the respondents have violated or are about to violate 2 U.S.C. §§ 432, 434, 441a and 441b(a), and 11 C.F.R. § 114.4, should impose appropriate sanctions for such violations, should enjoin the respondent from all such violations in the future, and should impose such additional remedies as are necessary and appropriate to ensure compliance with FECA and BCRA.

administrative personnel and their families, or by a labor organization to its members and their families. 2 U.S.C. § 441b(b)(2)(A). Another exception to the prohibition is for "nonpartisan registration and get-out-the-vote campaigns" by a corporation or by a labor organization aimed at their respective restricted classes. *Id.* at (B). Because the voter mobilization activities in this case are aimed at the general public, these statutory exceptions do not apply.

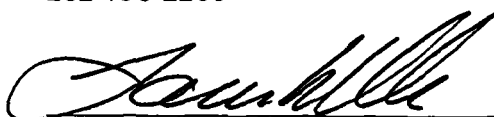
Respectfully submitted,



Democracy 21, by
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1825 I Street, NW, Suite 400
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202-429-2008



Campaign Legal Center, by
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Counsel for Democracy 21

26044152501

Verification

The complainants listed below hereby verify that the statements made in the attached Complaint are, upon their information and belief, true.

Sworn to pursuant to 18 U.S.C. § 1001.

**Vivian Ham
Notary Public
District of Columbia
My Commission Expires:
November 30, 2008**

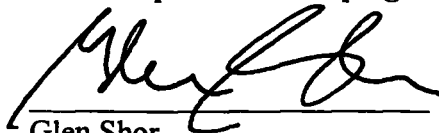
For Complainant Democracy 21


Fred Wertheimer

Sworn to and subscribed before me this Wednesday day of January, 2004

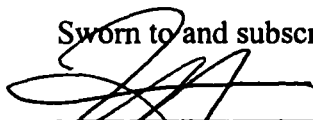

Notary Public

For Complainant Campaign Legal Center


Glen Shor

**Vivian Ham
Notary Public
District of Columbia
My Commission Expires:
November 30, 2008**

Sworn to and subscribed before me this Wednesday day of January, 2004

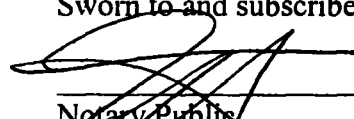

Notary Public

For Complainant Center for Responsive Politics


Lawrence M. Noble.

**Vivian Ham
Notary Public
District of Columbia
My Commission Expires:
November 30, 2008**

Sworn to and subscribed before me this Wednesday day of January, 2004


Notary Public

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26044152503



Door Door

Progressives the streets massive outreach

ayes

Coming Together and America Votes, created after McCain-Feingold to circumvent the ban on soft money. Named for the section of the tax code that regulates them, these progressive 527s—nearly all funded and organized by traditional Democratic allies such as labor, environmental and reproductive rights groups—can raise huge sums of unregulated money for voter education and registration so long as they do not advocate for a specific candidate.

The party that sticks together

Issue advocacy and voter contact in an election year is nothing new, but never before have progressive groups come together to coordinate their efforts, pool their resources and collectively execute the program. Although the organizational structure binding the half-dozen largest 527s is to a certain extent ad hoc, most of the groups are staffed by the same pool of veteran political organizers and headquartered in the same office building at 888 16th St.—across the street from the AFL-CIO in Washington, D.C.

Each 527 has a specific geographic or demographic niche. America Coming Together, which with a projected budget of \$98 million is the largest, is looking to register and educate Democratic-leaning voters in 17 battleground states. Partnership for America's Families is focusing on registering minority voters in swing state urban centers like Cleveland and St. Louis. And Voices for Working Families is working on registering and contacting black, Latino and women voters in other hotly contested areas such as Dade and Broward counties in Florida.

Alongside groups that will manage and execute the field operations are a few 527s, like America Votes, dedicated solely to coordinating these efforts.

"We want to make sure everyone isn't knocking over each other in the same neighborhoods," Richards says. "It's a big

Election Day is a year away and the Democrats don't yet have a presidential nominee, but for labor activists, environmentalists, pro-choice advocates and other progressives, the battle for the White House is well under way.

About a dozen groups—backed by the likes of EMILY's List, the AFL-CIO, the Sierra Club and MoveOn.org—are quietly building an infrastructure to undertake the most extensive door-to-door grassroots voter contact operation in U.S. history. Its potential to turn the election already is well understood on both sides: Longtime activists say they haven't felt this energized in decades—and Republicans are using congressional hearings to shut down the operation or steal directly from its playbook.

"It's never been done before on this level," says Steve Rosenthal, the former political director of the AFL-CIO and current president of America Coming Together, a voter outreach group funded by EMILY's List, organized labor and private donors such as George Soros. "It's something that the parties should have been doing but were neglecting."

Cecile Richards, former chief of staff to House Minority Leader Nancy Pelosi, is director of America Votes, a coalition of 24 progressive organizations that will be coordinating field efforts. She echoes Rosenthal and adds, "For me, personally, that's the best kind of politics, direct retail, engaging voters about issues. I think it's a really welcome change and emphasis."

These field operations will be supervised, coordinated and executed by these same dozen so-called 527s, such as Americans

country and there are a lot of voters."

Nearly all 20 organizations within the America Votes coalition routinely meet to share ideas and strategies. Richards says that groups with more experience, such as organized labor, have been mentoring units newer to the field: "It's an opportunity for those who are established to work with groups that are newer, that have more flexibility."

A few of the 527s plan to use their funds for media and advertising, but most will focus on getting out into people's neighborhoods and knocking on doors. "Everyone's learned their lesson from the 2000 election," says Aimee Christensen, executive director of Environment 2004, a 527 put together by a coalition of environmental groups. "A lot of money went into media and not into peer-to-peer contact and it wasn't effective because [TV] markets were overwhelmed. It increases the credibility of the information when it comes from someone in their community."

Turning off TV

Since the '70s, presidential campaigns have centered on raising the massive funds needed to buy expensive television airtime. This emphasis on big media and big money meant that the grassroots, person-to-person campaigning traditionally at the core of the Democratic Party's strategy fell by the wayside.

Political veterans now say that in this time of waning ratings and increased media saturation, TV ads no longer provide the value they once did.

"Really it's been the orthodoxy of campaigns for the last 20 years that money for TV is the whole ball game," says Dan Berwick, an associate at the grassroots consulting firm FieldWorks. "But you can't cut through all the schlock that's on TV, so you have to go for quality over quantity and that's why people are ending up on people's doors."

If door-to-door canvassing seems a throwback to the oldest and most basic kind of politicking, the technique has been radically updated. "We're doing a precinct-level analysis to figure out who the voters are we need to reach and then where they are and how we can talk to them," Rosenthal says. "We're using a pretty sophisticated Web-based voter data base and we're using Palm Pilots so we can load all of the questions to voters into the Palms and then take their responses and hot sync back onto the system at the end of the day."

By developing a detailed profile of each voter or potential voter's concerns, organizers can target messages with an unprecedented degree of specificity. "What I think you'll see is a significant amount of localization of message," says Laurie Moskowitz, former director of the National Coordinated Campaign and co-founder of FieldWorks. "We're not just talking about Superfund sites, but Superfund sites in your neighborhood."

The local message also will be combined with a local face, as groups look toward hiring canvassers from within the communities. Arlene Holt-Baker, who heads up Voices for Working Families, says she's hoping to channel the energy of local community activists angered by the war and the radical Bush agenda in their canvassing and registration efforts. "We are not sending people in," she says. "We really believe that the people who are on the ground, the ones who are interested in what's happening in their communities, are the best people to be going door to door."

Aside from updating their techniques, the field-oriented 527s are starting their operations earlier than ever before. "In 2002 you saw people paying attention to field, but they didn't start

early," Moskowitz says. "That's the biggest difference. The whole realm of activity and planning is going to be so different because people are backing up their timeline."

Service Employees International Union Local 1199 in New York announced that it would pay the salaries of 1,000 union workers to take a full year's leave from their jobs and spend the time canvassing in battleground states; America Coming Together began setting up field offices a year ahead of election day; and Voices for Working Families started knocking on their first doors in Florida in mid-November.

"We're going to have a year's worth of contact that is layered and meaningful," Rosenthal says, "as opposed to bombarding people with a lot of mail and prerecorded phone calls that they just turn off to."

This year's massive field effort is the culmination of years of efforts by Rosenthal and others to make grassroots politics the center of the left's political agenda. In the '90s, Rosenthal, then political director of the AFL-CIO, undertook a concerted effort to reassert labor's political influence by turning out more union voters. He began a program of sustained voter registration and outreach among union members, and the results were impressive. Between the 1992 presidential election and the election in 2000, the percentage of the electorate who were union household members increased to 26 percent from 19 percent. Over the course of the last eight years, 15.5 million non-union household voters dropped out of the electorate, but 4.8 million more union household voters were added.

"The lessons were pretty basic," says Rosenthal. "One, we found that when we talked to people about issues they cared about, they responded. Two, when you talked to people face-to-face, as close to where they live as you can get, they responded. Three, when you talked to them a lot over the course of several months, they responded."

Rosenthal applied what he learned to the 2000 presidential election, where labor's canvassing and voter contact operations helped Al Gore receive more votes than any other Democratic presidential candidate in history, and is credited with providing the margin of victory in a number of states that he won by less than 10,000 votes.

Grassroots arms race

The GOP, which has historically put far less emphasis on field operations, learned from the Democrats, and in 2001 initiated a massive voter registration drive among Republican constituencies. It also instituted the "72-Hour Project," a concerted get-out-the-vote operation that many Republicans credited with the party's success in the midterm elections and prompted Ralph Reed to boast that the "the story of 2002 is not that Democrats stayed home, it was that Republicans came to the polls in historic numbers."

"The Republicans weren't shy about the 72-Hour Project," says Amy Chapman, director of Grassroots Democrats, a 527 working with state parties to coordinate campaigns. "They said it was a page out of the Dems' playbook—and it was."

It wasn't the first time Republicans took their techniques from the Democrats (voter guides and direct mail also were Democratic innovations), but it stunned the party and hammered home Rosenthal's point: Aggressive field operations can win campaigns.

With just about everyone predicting that the 2004 election will be as close and bitterly contested as 2000, the stakes are even higher. "It's like a grassroots arms race," says Ruy Teixeira,

co-author of *The Emerging Democratic Majority*. "The Republicans turned up it a notch and now the Democrats recognize that they have to turn it up a notch."

The energy surrounding field efforts is palpable, and many veteran party activists and organizers who were critical of the ways in which the Bipartisan Campaign Finance Reform Act would end up handcuffing the Democrats now say that birth of the 527s has reinvigorated the party by moving money and manpower outside the Democratic National Committee and closer to activists. "There are some functions that historically the parties did that are going to fall to other organizations," Richards says. "If you look at what labor has done—increasing their share of the vote and focusing their efforts on direct contact with union members in the workplace, in their homes, on the phones—they've really demonstrated the impact of direct contact. You don't inherit a lot of the institutional baggage that anyone who runs the DNC or the state party has to deal with."

Palm piloting voters

Lurking in the background is the possibility that the soft-money ban, the central provision in McCain-Feingold that gave rise to 527s, might be overturned by the Supreme Court. If that were to happen, it would present progressive activists with a dilemma: collapse the infrastructures already erected into the DNC or forge ahead with the 527s.

The decision likely will rest on groups' fundraising prospects. So far the 527s haven't had much of a problem finding cash, thanks in no small part to billionaire financier George Soros, who has donated \$12 million so far to 527s and has pledged millions more.

Republicans and the right-wing press have seized on the Soros contributions as evidence that the Democrats are campaign finance reform hypocrites who have been bought. Drawing a distinction between his actions and theirs, Soros recently defended his decision on public radio's "Marketplace."

"I am contributing to independent organizations that are by law forbidden to coordinate their activities with political parties or candidates," Soros said. "I am not motivated by self-interest

'Our mission is to expand the electorate by registering hundreds of thousands of black, Latino, women and union voters, and there are way more of us than there are of them.'

but by what I believe is in the public interest. So when the Republican National Committee attacks me and distorts my motives I say the pot is calling the kettle black. You see, I'm different from their contributors. I'm not trying to buy influence. I'm acting out of the conviction that the Bush administration is leading us and the world in a dangerous direction."

Organizers agree with Soros, saying that the goal of this sustained and sophisticated person-to-person contact with voters is not just to defeat Bush but to reconnect people with the political process.

"A lot of voters feel like you come a little too late and you take me for granted," Holt-Baker says. "With people of color and

women that tends to happen with one particular party."

"Both parties have so neglected their organization and their voters, and kind of insulted voters for so long, that people are just yearning for and dying for people to come talk to them again," Rosenthal says. "People are fed up with the political system as we know it and they're dropping out of it, and what we're trying to do is bring them back."

GOP wants Dems' blueprint

As heartening as it is for progressive groups to be pounding the pavement, one question remains: Will the effort work? The last mayoral election in Philadelphia provides a clue. In the three months leading up to the election, Partnership for America's Families, another 527 headed by Rosenthal, registered 86,000 new, mostly black and Latino voters. Democratic Mayor John Street won the election by 85,000 votes.

The histrionic reaction of the right is another good indication. In mid-November, Republicans lashed out at 527s, with RNC chairman Ed Gillespie writing letters to campaign finance watchdogs urging them to investigate groups like America Coming Together for violations of the Bipartisan Campaign Finance Reform Act. The same week directors of six progressive 527s received "invitations" to testify before the House Administration Committee chaired by Rep. Bob Ney (R-Ohio). Ney, who oversees the GOP's House incumbent retention program, said he was concerned that "organizations have been formed in the wake of BCFRA with the apparent intent of using soft money to influence federal elections—something the Bipartisan Campaign Reform Act purported to ban."

Rosenthal, Richards and the rest declined to show, given that they weren't subpoenaed, and Rosenthal issued a statement saying: "It is clear that President Bush and the Republican Leadership are intimidated by the prospect of our registering, educating and turning out hundreds of thousands of progressive voters in 2004 so they'll do whatever they can to hamstring our operations and attempt to harass us. ... We will not be bullied by partisan abuse of congressional power."

Ney says he's now planning to subpoena Rosenthal and others to testify. Those in the 527 community have taken Ney's pledge as a sign that Republicans are desperate to get the details on the progressive 527s' plans so they can once again copy the model, if not shut down the operation.

The country's shifting demographics already favor Democrats who consistently win huge pluralities of the non-white vote, which is why Karl Rove has focused the GOP effort on registering 4 million evangelicals. But Rosenthal says that strategy can take the Republicans only so far. "The reason it will work better for our side than theirs is because our vote is more expandable," he says. "Our mission is to expand the electorate by registering hundreds of thousand of black, Latino, women and union voters, and there are way more of us than there are of them."

For Rosenthal, the effort isn't just about winning in 2004. "We're not talking about folding up our tents on November 10, 2004, and going home," he says. "The idea is to create a sustained program that we can build on well into the future." ■

Christopher Hayes is a writer in Chicago.

Democratic 'Shadow' Groups Face Scrutiny

GOP, Watchdogs to Challenge Fundraising

By Thomas B. Edsall
Washington Post Staff Writer
Sunday, December 14, 2003; Page A05

Leading campaign finance watchdog organizations as well as Republican activists intend to challenge the new "shadow" Democratic Party -- a network of independent groups gearing up to spend as much as \$300 million on voter mobilization and pro-Democratic TV ads.

The organizations -- the Center for Responsive Politics, the Campaign Legal Center and Democracy 21 -- contend that the pro-Democratic groups are violating prohibitions on the use of corporate and labor money for partisan voter registration and mobilization drives.

Trevor Potter, chairman of the Campaign Legal Center, said the groups have become "the new soft money loophole. . . . This is the beginning of an important discussion about how these groups are going to operate."

Judith L. Corley, who represents America Coming Together (ACT) and other groups under fire, disputed Potter's contention. "The law has permitted this type of activity all along," she said.

Harold Ickes, who runs the pro-Democratic Media Fund, contended the Republican and watchdog critics are "one, trying to tie us up; two, divert our attention; three, force us to spend money on legal fees rather than electoral activities; and four, to try to chill our contributors."

Republican activists have created a group, Americans for a Better Country (ABC), in part for the purpose of getting the Federal Election Commission to rule on the legality of the objectives and practices of the pro-Democratic groups.

"There is this gray area that right now liberal groups are operating in," said Craig Shirley, one of the founders of ABC. "We'd like to operate in that area if it is legal. . . . We are still at the starting gate, and they are four furlongs ahead of us."

The 2002 McCain-Feingold law upheld by the Supreme Court last week banned parties from raising "soft money." Although supported by overwhelming Democratic majorities in the House and Senate, Democrats were far more dependent on those donations than the GOP, which has been more successful raising smaller, and still-legal, "hard money" contributions.

So Ickes is planning a media blitz from March to September, when the stage is usually dark, to soften up the swing voters before the candidates run their own commercials in the fall. By law, activist groups like the Media Fund cannot promote or pummel a candidate by name. But they can take a hard position on the issues that inform the campaign, the ones that decide elections.

With a reputation for playing politics as if it were a full-body contact sport (he once, famously, bit a colleague in the heat of an argument, explaining later that he had been hungry), Ickes is not afraid to get bruised fighting for the causes closest to his heart. He lost a kidney because segregationist thugs in Louisiana beat him when he joined blacks in Mississippi working for voting rights in the 1960s. After law school, he cut his teeth as a grass-roots organizer in the gritty New York world of labor unions and media frenzies. Friends find it amusing that he is now lunching with billionaires in rarified conference rooms, plying open wallets with his insider's knowledge of politics.

Ickes does not look like someone raising money from the wealthy; for years, he was teased about his dismal sartorial taste. "He buys the ugliest ties on K Street for \$10," ally Gerald McIntee, president of the American Federation of State, County and Municipal Employees marvels, adding that Ickes also "still pays \$5 for a haircut from a barber." And he doesn't talk the talk either, using more staccato than polish in his pitch. "President Bush is not compassionate, and he's not conservative," he said. "He's a radical."

But Ickes is a stickler for completing assignments. He takes notes obsessively, one reason he was subpoenaed to testify before Congress or the courts on Clinton White House scandals more than 30 times. "Harold's an organization freak," said John Podesta, former Clinton chief of staff who now heads a liberal think tank, the Center for American Progress. "The real question is why he continues to take copious notes. I've trained myself to operate on what I remember or what I don't."

And he is loyal. He still rises in praise of Clinton, and he was the first person former First Lady Hillary Clinton called when she was considering running for the Senate in New York. Friends say it is the defining characteristic in his outsized personality. "The dirty little secret about Harold Ickes is that inside the rough exterior is a sweet man committed to good liberal principles," said Ann Lewis, who heads the Women's Vote Center for the Democratic National Committee. "If he thinks he can make a difference on something worth doing, he'll do it."

No one expects Ickes to become a media consultant. His greatest public tussles were with Dick Morris, the strategist who convinced Clinton to run ads in 1995 to inoculate himself against any challengers in the 1996 race. Ickes acknowledges that he does not watch television, and a colleague said he would be "surprised if Harold has cable." He smiles when asked about this.

"Once we raise the money, we'll hire a creative team, an executive team to do the spots," he said. "I'm the organizer." Then he paused, perhaps relishing the thought that a man who once wanted to be a president's chief of staff is now his own boss, at least of the Media Fund. "I'm the president."

Harold Ickes was 13 when his father died in 1952 at the age of 77, leaving a young wife and two children. Kept at a distance from his father's life as FDR's hatchet man -- and the longest serving Interior secretary in U.S. history -- Ickes grew up in a farm in nearby Montgomery County. "I did not know him that well," he said of his father. "I was pretty apolitical. Maybe I was running away from his politics."

He went to Stanford, and afterward he worked on a ranch in Northern California, as a cowboy. In the civil rights battlegrounds of Mississippi, he caught the political bug. He came, he said, "to throw the spotlight on the harsh segregation." He left having helped produce Mississippi's first integrated delegation to the Democratic convention. He became a lawyer, worked for a

New pro-Democratic organizations such as ACT, Voices for Working Families (VWF), America Votes and the Media Fund have stepped in this year to attempt to fill the vacuum created by the soft money ban. These groups are accepting large contributions from labor unions that the parties are prohibited from accepting. Most are explicitly opposed to President Bush.

In the process, ACT, VWF, America Votes and the others are taking over many of the functions traditionally associated with the parties, including voter registration, canvassing, turnout. The Media Fund plans to run radio and television "issue" ads critical of Bush and supportive of Democrats.

Now the watchdog organizations contend that ACT and some of the other groups have become "pass-throughs" or "conduits" for labor unions seeking to use treasury money for partisan registration and turnout efforts. The unions, they argue, are effectively violating federal law and FEC regulations prohibiting corporate or labor treasury money from being used for partisan purposes with the general public. They cite FEC regulations that say:

"The corporation or labor organization shall not make any communication expressly advocating the election or defeat of any clearly identified candidate[s] or candidates of a clearly identified political party as part of the voter registration or get-out-the-vote drive. . . . The registration drive shall not be directed primarily to individuals previously registered with, or intending to register with, the political party favored by the corporation or labor organization."

Corley said the Campaign Legal Center and allied organizations are "trying to expand the soft money ban to all activities, but they are doing it increment by increment by increment."

"What we are trying to do is get the FEC to enforce the law as intended," said Larry Noble, executive director of the Center for Responsive Politics. "All we are saying is: Enforce this law as intended, and don't repeat the mistakes of the past."

from the December 05, 2003 edition - <http://www.csmonitor.com/2003/1205/p02s02-uspo.html>

Now it's thunder from left, too, in the ad war

A decision by liberal group Moveon to run feisty anti-Bush spots raises stakes of the on-air fight - and soft money.

By Linda Feldmann | Staff writer of The Christian Science Monitor

WASHINGTON - The ad is called "\$87 billion MisLeader," and it challenges President Bush's spending priorities.

Amid shots of a schoolboy at his desk, a teacher at a chalkboard, and a little girl with a thermometer in her mouth, a voice tells viewers, "George Bush is going to spend \$87 billion more in Iraq. But after almost three years, where's his plan for taking care of America?"

The Moveon.org Voter Fund, the ad-making wing of a liberal Web-based organization, is betting that this message will resonate among voters, in an ad campaign slated to cost \$1.8 million. The ad, which began airing Thursday, will run for the next two weeks in Ohio, Nevada, Florida, Missouri, and West Virginia - key battleground states in the 2004 presidential race.

Between now and March 2004, Moveon hopes to spend \$15 million on ads - \$10 million from its small-scale donors and the rest in matching funds from billionaire financier George Soros, and Peter Lewis, chairman of Progressive Corp.

This effort represents but a tiny fraction of the advocacy work - ads, voter identification and registration, and get-out-the-vote drives - that outside groups will engage in this election cycle to an unprecedented degree. The reason: The year-old ban on so-called "soft money" donations to the political parties, as part of the new McCain Feingold law, has curtailed the ability to perform those functions, especially in the Democratic party.

Now, a growing roster of so-called 527 groups - named for the IRS provision that governs them - are gathering millions of dollars of unregulated soft money for the 2004 election, to be deployed in much the same way that the party used to use soft money. For Democrats, this shift of soft money to outside groups is especially important, since the party is less successful at raising "hard money" contributions (which are limited and regulated) than are Republicans.

So far, in the 2004 election cycle, Democratic party committees have raised \$75 million and the Republicans have raised \$174 million. To longtime observers of the campaign-finance system, the brave new world of McCain Feingold is still unfolding - but problems are already emerging.

"What I think we've already seen, and can anticipate even under [McCain Feingold], is a shift by well-funded interests or individuals to continue to try to influence the outcome of federal elections, and we end up with even less disclosure than we had under soft money," says David Magleby, an expert on campaign finance at Brigham Young University.

The large, high-profile donations by Messrs. Soros and Lewis to several groups are atypical in that they were well-publicized. What concerns proponents of the soft-money ban is that many of the donations will be made anonymously, and voters will not know who is behind various ad campaigns.

So far, the original House and Senate sponsors of the campaign-finance legislation, which was years in the making, are in "monitoring mode," watching to see how implementation pans out. Another important development will come soon, when the US Supreme Court rules on the constitutionality of the law's many provisions.

Essentially, says one Senate aide, the law represents what was "doable" after years of struggle. "We took it as far as we could, but I think our fundamental belief is that the law will be twisted if these groups are only complying with the law on the surface and coordinating with the parties with a wink and a nod," he says, expressing skepticism that the Federal Election Commission will provide adequate oversight.

At this phase in the campaign, before the Democrats have a nominee, the role of these new groups is greater than what it would have been for the Democratic Party at this point. Historically, the party would have been silent at this phase, since it does not have an incumbent in the White House.

So one of the many unknowns of the new system is how efforts to shape public opinion by outside actors will ultimately usurp, or compete with, the message-making of the party.

On the Democratic side, some potentially powerful 527 groups have come into being in the last year. The largest is America Coming Together, a coalition of labor unions, environmentalists, and feminists which hopes to raise \$85 million.

Another group, also with labor-union activist support, called Voices for Working Families, aims to raise \$20 million to bolster minority registration among minorities.

Activists have debated whether it makes sense to start airing ads so soon, with 11 months to go before the general election. But for the Moveon.org Voter Fund, now is a good time.

"The major reason to get out so early is the president and the GOP have significant funds that they're going to be spending, and we see our job as inoculating the American public against distortions that are likely to come," says Wes Boyd, co-ounder and president of Moveon.org, an online group that started to support President Clinton during his impeachment battle.

The New Soft Money

Campaign-finance reform didn't kill big political donations, it just changed the rules of the game. Meet the players.

FORTUNE

November 10, 2003

By Jeffrey H. Birnbaum

The fourth floor of the building directly across the street from the AFL-CIO headquarters in Washington looks abandoned. No receptionist greets visitors. The hallway lights aren't turned on. Most of the offices are empty except for cardboard boxes left by tenants past. And in the floor's waiting room, the only indications that work is being done at all are paper signs taped to the walls.

It doesn't look like much, but it is the heart of the big-money movement to unseat George W. Bush next year. Here, in space provided by organized labor, four separate organizations--with innocuous-sounding names like Voices for Working Families and America Coming Together--have begun to collect large checks and to plot multistate strategies to remove the President from office. These groups are, in effect, taking over the function of the Democratic National Committee, now barred by law, that once took in the much-vilified and unrestrained contributions called soft money. "These groups are crucial" to the anti-Bush effort, says Governor Bill Richardson (D-New Mexico), who has a group of his own called Moving America Forward. "Now that campaign finance reform is law," he says, "organizations like these have become the replacement for the national Democratic Party."

McCain-Feingold, as the campaign-finance law is commonly known, was supposed to eliminate massive contributions from national politics. After years of struggle, reformers finally were able to persuade Congress and the President last year to close a loophole that allowed individuals, corporations, and labor unions to pour as much soft money as they liked into the national parties. The specter of the tobacco or pharmaceutical industries "buying off" the Republican Party with million-dollar donations, or the AFL-CIO doing the same with the Democrats, was supposed to be a thing of the past.

But campaign cash is like the Pillsbury doughboy, says Republican lobbyist Ron Kaufman: "You push it in one place, and it pops out in another." McCain-Feingold blocked soft money from going into the national party committees, but it didn't stop funds from being sent outside that system. The Constitution's right of free speech prevented reformers from imposing any sort of blanket restrictions. So party loyalists have been working overtime to develop ways of keeping the soft-money spigot open without also violating the complex new law. For Democrats, soft-money entrepreneurship is flourishing in this one building in downtown D.C., the petri dish of the new money politics.

Its existence proves that big money and federal elections are inextricably linked. McCain-Feingold has spawned a new set of players to spread the lucre around. Most of these

freshly minted kingmakers are Democrats, but not all of them. And additional groups are sprouting up all the time. There are so many, in fact, that the principals of these new organizations

have to keep cheat sheets on their desks to follow all the changes. A pending decision by the Supreme Court about the constitutionality of McCain-Feingold could jostle the scene even more.

Everyone agrees that Democrats shot themselves in a vital spot when they championed McCain-Feingold. Many people believed that the Republican Party, with its far wealthier base of supporters, would be hardest hit by the law. But in fact, the GOP has spent years building a massive--and extremely responsive --small-donor list and doesn't need to rely on five-, six-, or seven-figure donations to make a go of it. Therefore, Democrats have no choice but to find new ways to funnel outsized contributions into the electoral process to remain even remotely competitive in Election 2004.

Enter Steve Rosenthal, Ellen Malcolm, Gerald McEntee, and Harold Ickes. None of these is a household name. But for Bush enemies they are the elite of the post-campaign-finance-reform world. They have all formed entities that can legally accept as much money as anyone cares to give and dispense the funds for political purposes--as long as their groups don't blatantly back any particular candidate. Their lawyers won't allow them to say so, but they are all determined, in effect, to elect Democrats in general, and the Democratic nominee for President in particular, next year. Think of them as directors of a privatized Democratic Party.

In some ways this setup is an improvement on the old party-centered system. In the last presidential campaign in 2000, the Democratic Party collected \$245.2 million in soft money and spent it as it chose. Afterward, many prominent Democrats criticized its priorities, and for good reason: Al Gore lost his bid for the presidency, and Republicans won a majority of the nation's governorships as well as control of the U.S. Congress. The new, privatized structure allows donors to decide with much more precision where their money will go. Each organization has given itself a narrowly defined mission and is seeking funds for just that purpose and no other. For instance, Governor Richardson's group, Moving America Forward, will work to register Hispanic voters and get them to the polls in four states and also recruit more Hispanics to run for elective office.

In addition, the leaders of the largest new groups have created a coordinating council led by Cecile Richards, a former congressional aide who also happens to be the daughter of a Democratic icon, former Texas governor Ann Richards. The group, called America Votes, will try to encourage the new organizations as well as such traditional Democratic leaners as the Sierra Club, Planned Parenthood, and the Association of Trial Lawyers of America to complement one another's efforts rather than compete. After a recent meeting in Florida attended by about 20 of these like-minded groups, one of the representatives there approached Richards to say, "I guess this means we don't all have to go to Tampa."

But cooperation doesn't come naturally to Democrats, and it didn't come at all when these shadow parties were first established. One of the earliest groups, Partnership for America's Families, was formed by Rosenthal, a former political director of the AFL-CIO, and McEntee, president of the American Federation of State, County, and Municipal Employees. But the two headstrong laborites soon had a falling-out over who would be in charge. So McEntee started his own group, Voices for Working Families, and Rosenthal opened America Coming Together (ACT) along with one of the Democrats' top fundraisers, Ellen Malcolm, founder of Emily's List, the nation's largest political action committee. Both organizations have the same goal--mobilizing voters in swing

states. The only major difference: ACT gets more of its money from non-union sources, including a \$10 million gift from investor George Soros.

Malcolm is also raising funds with Ickes, a longtime friend and aide to former President Clinton, for an organization called, simply, the Media Fund. With about \$5 million in pledges so far, the group will buy TV and radio commercials to promote the policies of whoever gets the Democratic nod for President. Ickes expects that Bush forces will barrage the Democratic nominee with ads as soon as he emerges next spring from the Democratic primaries. The Media Fund intends to fight back. "They're really going to pummel us and define the issues," Ickes says. "We need to be able to deal with that." He says his fund has already enlisted "some big names" as financial supporters, though he won't say who.

All of these programs are being undertaken despite a lot of disagreement about what the law truly means. One group, Grassroots Democrats, was put together in large part just to explain to state parties and to prospective donors what they can and can't do. "The law is so confusing that we believe there's a great need for technical assistance," says the group's executive director, Amy Chapman. Her organization will serve as a kind of seal of approval for contributors who want to know which states are conforming most effectively to the new law's many restrictions--at least as far as anyone can tell.

Republicans aren't yet confident that they know what those restrictions are and have shied away from forming their own privatized enterprises. Last year a group led by a former aide to House Majority Leader Tom DeLay actually returned a \$1 million gift from the House Republican's campaign committee. The group, called the Leadership Forum, apparently feared that working too closely with a party-connected committee might be deemed improper down the road. GOP insiders say that their richest benefactors will remain on the sidelines until the legality of such organizations is tested.

Such a test will probably come soon. Republican lobbyists have discussed asking the Federal Election Commission exactly what the law allows, perhaps using as a guinea pig a conservative group like Progress for America, which has lately stirred up grassroots backing for Bush's judicial nominees. In the meantime, even the President's most active advocates, like the National Rifle Association, are staying away from privatized parties. "The law is very threatening in terms of the possibility of prosecution," says Wayne LaPierre, the NRA's chief executive. "People are going to end up in jail under this law, and I'm going to make sure the NRA is squeaky-clean."

Some huge Republican checks are still being delivered, of course. The Republican Governors Association, which has separated itself from the Republican National Committee, is said to be a repository for many of them. Several industry associations that tilt toward the GOP also are attracting soft-money leftovers on the theory that they will work hard next year to get Republican voters to the polls. The National Federation of Independent Business, the small-business lobby, for instance, has increased its highest membership category from \$10,000 to \$25,000 and now has two staffers soliciting major contributions. Americans for Tax Reform (ATR), another pro-Bush organization, is scouting for the most generous donations it can find. "I've tried to tell all the rich people I know about my fine work," says Grover Norquist, president of ATR.

The fact is, however, that neither Bush nor his party will need as much of the former soft money as the Democrats will. The President's campaign is on track to shatter its own fundraising record in 2000 (\$101 million) by collecting at least \$175 million and perhaps more than \$200 million this time around. The Republican Party is also on a record-breaking pace thanks in large measure to sizable increases in the maximum amounts that individuals and PACs can contribute under the new law. The Democratic Party is making gains too, but no one expects Democrats to come close to Republicans on the money front in 2004.

Most experts even doubt that the Democrats' shadow organizations will be enough to allow the Dems to catch up. Prior to McCain-Feingold, both national parties lured soft money by promising donors personal meetings with senior elected officials. As distasteful as that sounds, it worked. But the new surrogate groups can't offer the same lobbying opportunity; they are prohibited from dealing directly with lawmakers or candidates. As a result, says Anthony Corrado, a Colby College campaign-finance professor, "the new groups are not going to amass the sums of money that the parties were capable of putting together prior to the new law. The donors used to think they needed to give in order to maintain their access on Capitol Hill, but the new groups don't provide that."

The people who will donate to these new organizations will have to feel strongly that George Bush must go. And those who do so will be investing in state-of-the-art political campaigns. ACT already has get-out-the-vote specialists canvassing homes in Ohio to identify the most virulent opponents of the President. When the effort is fully underway, says Jay Neel, ACT's director in the state, 4,000 people will go door-to-door, PalmPilots in hand, collecting detailed intelligence that will be fed into a giant database. The object, Neel says, is to register 200,000 new voters in all 88 counties and target each of them with the kind of information that will propel them to the polls on Election Day. Whether this works or is merely a pipe dream will depend on how widely the new money game is accepted by donors who have never dealt with anything like it before.

And what does this all mean for the regular old political parties? Both the Democratic National Committee and the Republican National Committee are not only still around, they're also raising more hard money than ever. That's the shorthand term for the small-chunk contributions (up to a grand total of \$25,000 per calendar year from individuals, which is an increase from the old maximum of \$20,000) that the new campaign-finance law allows the national parties to collect.

The Republican National Committee is raising so much hard money, in fact, that it could come close to replacing its soft-money losses. One reason: With the Republicans so thoroughly in control of Washington, petitioners are eager to please them. Few expect that the out-of-power Democratic Party can be as successful. "The DNC will not have the financial resources it had in prior presidential elections," Ickes says. "These groups were created in response to that." Whether George Bush is reelected may depend on their success.

Saturday, December 06, 2003

Democrats worried by emerging liberal force

By David Postman

Seattle Times chief political reporter

Some of the country's top Democratic political operatives were in Seattle this week courting some rich party donors for a new campaign to help whichever Democrat faces George W. Bush next year.

They left with donations and pledges for more for the Joint Victory Campaign, a partnership of two newly formed organizations that say they will raise more than \$100 million for voter outreach and a media campaign.

At least some of the money will be spent here. America Coming Together — which along with the Media Fund makes up the Joint Victory Campaign — says Washington is one of its 17 battleground states and that it will soon open a Seattle office.

The political committees are among those formed since Congress passed campaign-finance reform last year that barred political parties from accepting "soft money" donations. The groups can still accept those donations and do many of the chores that were the purview of the party.

Contributors say they see the groups as the most effective way to deliver a focused message in the campaign against President Bush's re-election.

But there is an emerging discontent among Democratic Party officials and representatives of interest groups that traditionally back the party. They worry about the loss of money, attention and effort that is shifting to the new groups, from high-profile operations backed by well-known people to little-known groups with ill-defined missions.

"There is an absolute proliferation of these groups, and one doesn't know what the other is doing," said Washington state Democratic Party Chairman Paul Berendt.

The new groups were a side discussion at a meeting Wednesday night in Olympia of party officials and representatives of unions and trial attorneys — a loosely organized group of Democratic interest groups that calls itself "The Friends."

"They were grouching about it and saying, 'What the hell is this?' " Berendt said. "There was a genuine feeling that this was a disaster."

Response to campaign law

A number of new left-leaning, political groups popped up Whack-a-Mole-like as Congress thought it was putting the hammer to soft money. Congress passed the McCain-Feingold law last year prohibiting soft money donations to parties. Unlike the parties, the political committees can still receive soft money donations, which can be used for voter outreach, get-out-the vote campaigns and issue ads that can criticize a candidate's record but cannot advocate a vote for a candidate.

Some of the groups are organized as so-called "527s" under the IRS code that allows for groups to raise unlimited donations of unregulated soft money.

America Coming Together is a political action committee regulated by the Federal Election Commission. It accepts both unlimited soft money donations and "hard money" donations limited to \$5,000, which can go directly to candidates. It is working with the Media Fund, and when money is raised for the partnership it goes to what is called the Joint Victory Campaign, according to Lorraine Voles, a D.C. consultant working for the group.

America Coming Together was announced in August. It is run by the leaders of five organizations that back and finance Democratic candidates. Those leaders include Ellen Malcolm, president of Emily's List, a women's fund-raising group, Carl Pope, executive director of the Sierra Club, and union officials.

The Media Fund is headed by Harold Ickes, a former top adviser to the Clintons.

America Coming Together will concentrate on voter outreach, identifying likely Democratic voters and working to get them to vote in November, Voles said.

The Media Fund will focus on an advertising campaign.

Donors meeting in Seattle

On Monday, Ickes and Malcolm were in Seattle for private meetings with donors, said Ken Alhadeff, a Seattle real-estate investor and major Democratic donor. Organizers or attendees would not say who showed up for the local meetings.

Alhadeff said he would donate office space for the new America Coming Together field office in Seattle. He also donated money and said he will give more, though he hasn't yet decided how much.

"I personally believe this is the most effective thing I could do politically at this time on a national level," he said.

America Coming Together was seeded with \$10 million from billionaire international financier George Soros.

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"Unfortunately, to get it off the ground we have to start with really wealthy people," said Alhadeff. "It is not just about rich, powerful Americans. But the beginning of America Coming Together is trying to get a strong economic base."

Peter Goldman, a Seattle attorney and environmental activist, said he pledged a "substantial sum."

Alhadeff and Goldman said America Coming Together will present a cogent, focused message to help defeat Bush no matter who the Democratic nominee is. They say it's a very different approach from what they've been used to as members of the highest echelons of the Democratic Party and financiers of Seattle's progressive politics.

"We're not looking to go through the party, which has all kinds of agendas and deals to cut," Goldman said.

He said environmental groups that he supports financially and other interest groups are upset that so much money is going to America Coming Together because it doesn't necessarily get spent on their priority issues. It also is likely to be spent elsewhere because the group has given its higher priority to other states.

As a fervent environmentalist, Goldman understands the concern.

"It isn't easy to part with big money and not advance your favorite issue," he said.

Bruce Gryniewski, executive director of Washington Conservation Voters, said he hopes local efforts won't suffer.

"I respect Peter's decision and the decision of others to get rid of Bush," he said. "I know that's a top priority and that's one strategy. But another strategy is to continue to build the capacity for environmental politics in our state, and I hope and I believe Peter and others will be with us and share that vision."

Larry Shannon, government-affairs director for the Washington State Trial Lawyers Association, said his organization — a mainstay in Democratic politics — has received many solicitations from groups looking for money.

"Until we can get a better sense of who these people are and what they are up to, I don't think we will be making any decision or commitments ...," he said. "I would share the concern that this could dilute efforts in ways that are not as effective and efficient as they may have been in the past."

Alhadeff said it's a very different experience than the usual scene surrounding big-dollar donors.

"They don't even have autographed pens to give me," he said. "There are no trinkets. There isn't even an event. It's very refreshing."

To those who complain that the traditional party machinery is being neglected, Alhadeff said something different is needed because "we haven't done a very good job. We keep saying we're the party of the people but we don't win the vote of the people."

Fewer regulations

Campaign-finance watchdogs have expressed concern about groups surfacing this year because they operate under fewer regulations than the political parties. While a Republican-backed group was recently announced, the Democrats have led the way with the new organizations.

Despite concerns such as Berendt's that the efforts could hurt the party, there also is suspicion that the groups are working in close coordination with the Democratic Party.

"There's barely a hair's width of difference between these groups and the political parties," said Steven Weiss, spokesman for the Center for Responsive Politics.

He said that the groups could violate the spirit if not the letter of the McCain-Feingold restrictions.

"It's former political-party operators (who) are running them," Weiss said. "These new groups really are an effort by the political parties to come as close as they legally can to raising and spending soft money."

Republicans have criticized the efforts as fronts for the Democratic party and blatant attempts to subvert McCain-Feingold.

"I guess the question becomes, 'Is what they're doing in the spirit at least of campaign finance reform?' " said Jim Dyke, spokesman for the Republican National Committee.

Berendt said the proliferation of the groups may be fueled by political consultants and other operatives who feared the loss of soft money could hurt their bottom line.

"I believe that there is tremendous anxiety running through the veins of every political leader in Washington, D.C., on how to save their political careers in the aftermath of McCain-Feingold," Berendt said. "There's been this infrastructure built on a set of criteria and rules, and this is all a lot of these people could come up with to continue to operate."

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New Rules of the Game

IN THE WAKE OF THE SUPREME COURT'S CAMPAIGN FINANCE DECISION, POLITICAL MONEY IS STILL FLOWING, BUT IN SOME DIFFERENT DIRECTIONS.



In the years when he was fighting to defeat the new campaign finance law, Sen. Mitch McConnell, R-Ky., was fond of saying that political money is like a balloon—you push at it in one spot, and it pops out someplace else. With its 5-4 ruling in *McConnell v. FEC*, the Supreme Court decisively threw out the senator's constitutional challenge to the law. But even as it brushed aside his First Amendment complaints, the Court made a key observation that—ironically enough—was worthy of McConnell himself.

BY ELIZA NEWLIN CARNEY, PETER H. STONE, AND JAMES A. BARNES ■

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REUTERS/BRIAN SANDER, OPPOSITE PAGE: AP/CHARLES DHRAPAK

UNCHARTED WATERS:

George Bush, Howard Dean, and other 2004 candidates are already adapting to the new campaign regime, but many uncertainties remain. (Bush's image is reflected in glass.)

"Money, like water, will always find an outlet," the majority opinion stated, in an oft-quoted finding. "What

problems will arise, and how Congress responds, are concerns for another day."

That other day, the ruling implies, lies somewhere in the distant future. In fact, however, it has already arrived. The Court's ruling, issued on December 10 after a yearlong legal battle, comes as political players are already beginning to show how cleverly they can get around the new rules.

The law has been in place for only 13 months, but the unregulated soft money that it purported to ban is back in evidence. Now that soft money is verboten for political parties and federal candidates, it is flowing to a new generation of interest groups, many of which have a distinctly partisan tilt. These outside organizations, for the most part, face far fewer public-disclosure requirements than the political parties did. The result may be a campaign finance system that's even less transparent and accountable than the one it replaced.

"Not much has changed," said Michael A. Bailey, a

Georgetown University associate professor of government. "There may be a modest reduction of those relationships [that politicians had] with donors. But there's also a substantial reduction in clarity and in the transparency of the process, and a movement to more-obscure ways of funding" political activity.

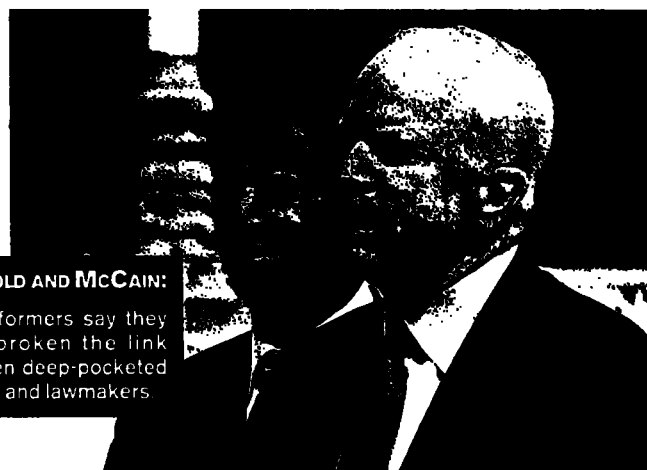
To be sure, the Court's bold, surprising ruling handed reform advocates an unequivocal victory. The law, the 2002 Bipartisan Campaign Reform Act, not only banned soft money, but also imposed controversial new limits on interest groups that run broadcast ads that even picture or mention a candidate in the weeks preceding an election. Opponents of the law had argued passionately that those limits squelched free speech. In rejecting that argument, the Court wholeheartedly embraced the reformers' position that the soft-money system had run amok and was creating both corruption and the appearance of corruption.

The landmark ruling, with Justices Stephen G. Breyer, Ruth Bader Ginsburg, Sandra Day O'Connor, David H. Souter, and John Paul Stevens in the majority, put to rest a decade-long fight over the new law. The decision also furnished the Court's first clear guidance on campaign financing in 30 years—even as it reflected the deep divisions among the Court's members.

"This is a sad day for freedom of speech," declared Justice Antonin Scalia in his dissent. He was joined by Justices Anthony M. Kennedy and Clarence Thomas, and by Chief Justice William H. Rehnquist.

The law's critics warn that it has simply moved the soft money around and has vastly weakened the political parties. Many pundits and political analysts agree, pointing to the difficulty that party committees have had raising hard-money contributions under the new regime, even as outside groups have gained strength.

The law's authors insist that such judgments are premature. The impact on the parties is vastly overstated, reform advocates say. Some political-money watchdogs admit concern



SCRIPPS HOWARD/ILL. CLARK

FEINGOLD AND MCCAIN:

The reformers say they have broken the link between deep-pocketed donors and lawmakers.

over the potential for shadowy outside groups to become magnets for soft money. But even if some money flows to outside organizations, reformers contend, the law has broken the crucial link between deep-pocketed donors and lawmakers.

Those who complain that big money still abounds "completely miss the point of the bill," said Sen. Russell Feingold, D-Wis., who with Sen. John McCain, R-Ariz., authored the law in the Senate. "The point was to break the connection between the officeholders and the money."

The ruling paves the way for fresh reforms, Feingold added. He and his allies have already introduced legislation to overhaul the presidential financing system, give free TV time to candidates, and replace the Federal Election Commission with a stronger agency.

There's little doubt, however, that the Court's ruling ushers in a new political era, fraught with uncertainty and potential abuse. The FEC's regulations, written under a tight deadline, contradict the law and open up vast new loopholes, the law's authors argue. They've sued in federal court to force the FEC to rewrite the rules, but the lawsuit, which has been on hold pending the high Court's ruling, won't be decided for months.

In the meantime, political players are scrambling to figure out just what the new rules really mean. The one certainty is that the ban on soft money puts a premium on the



BRADLEY SMITH:

As the incoming FEC chairman, he's being scrutinized by the campaign finance law's supporters.

still-legal, smaller donations known as hard money. That development puts Democrats—who had managed to compete with Republicans in the soft-money arena, but lag far behind in hard-money receipts—at a huge disadvantage.

The law also increases the importance of political action committees and dramatically boosts the influence of players who can bundle small checks. Gaining influence as well are lawmakers with celebrity status or leadership positions, who can bring in the small donations and distribute them to their colleagues.

The law also cements a trend that was already under way—the resurgence of grassroots "ground-war" politicking, which these days rivals, or even exceeds, high-dollar TV ads in importance. Political players are renewing their focus on voter registration, identification, and turnout, and especially on face-to-face contact with voters. Direct-mail and Internet fundraising are up, as is the use of the Internet to organize activists.

"There's an entirely different model now," said Simon Rosenberg, president of the New Democrat Network PAC. "And I think [for] the groups that are going to have an impact going forward, television is only going to become an increasingly unattractive option."

SHADOWY GROUPS CRASH THE PARTY

The most important post-McCain-Feingold trend so far is the emergence of a new generation of political committees that are moving into activities that were once the domain of

■ A PRIMER ON THE MONEY MAGNETS

The new campaign finance law is turning attention to tax-exempt groups that may become magnets for soft money. The rules vary, depending on the nature of the exemption. Here's a summary of what is and is not permitted under the Internal Revenue Code.

Charitable Organizations—Nonprofits known as 501(c)(3) groups (because of the section of the IRS code that regulates them) may not engage in partisan political activity. These groups may do some lobbying, but lobbying may not be their principal activity, and the IRS strictly limits how much they may do. However, 501(c)(3) organizations may do issue advocacy, voter registration, and voter mobilization as long as these activities are nonpartisan—that is, not in support of or opposition to a specific candidate or party. They face limited public disclosure requirements. Contributions to 501(c)(3)s are tax-deductible.

Advocacy Organizations and Trade Associations—The rules are substantially the same for 501(c)(4) advocacy organizations and 501(c)(6) trade associations. Both may

engage in unlimited lobbying and in partisan political activity, as long as neither activity is their primary purpose. If they engage in direct electioneering activity, these groups must comply with the new campaign finance law and with Federal Election Commission rules. They face limited public disclosure requirements. Contributions to these groups are not tax-deductible.

Political Committees—These groups are known as "527" organizations because they enjoy tax-exempt status under Section 527 of the IRS code. All political committees, including political parties and candidate campaign committees, are 527 groups. However, in recent years, certain new 527 organizations have claimed to be exempt from FEC rules because they are focused on "issues" and not on electioneering activities. Recently enacted disclosure laws require these groups to file reports, including the identity of donors, with the IRS. It is not clear whether the new campaign finance law will force 527 groups to follow FEC rules. Contributions to these groups are not tax-deductible.

—Eliza Newlin Carney

SOURCE: *National Journal*

A CATALOG OF KEY GROUPS

Here are snapshots of 10 leading groups that have jumped into the soft-money fundraising game to support Democrats and Republicans next year with issue ads, get-out-the-vote efforts, and other electioneering activities.

■ DEMOCRATIC GROUPS

The Media Fund: This is a 527 organization created and run by Harold Ickes, a former deputy chief of staff in the Clinton White House. The fund is seeking to raise \$70 million to \$95 million for a mammoth TV issue-advertising campaign to bolster the Democratic presidential nominee in some 17 battleground states next year. So far, Ickes says, his group has raised close to \$10 million.

America Coming Together: Led by Ellen Malcolm, president of EMILY's List, and Steve Rosenthal, the former political director of the AFL-CIO, this political action committee and 527 group is focusing on voter-mobilization in many of the same battleground states as the Media Fund. The two organizations, in fact, have sponsored joint fundraising activities. ACT, which collects hard money as well as soft money, hopes to bring in a total of \$94 million. The group has received donations and pledges of about \$40 million thus far, according to ACT's leaders, including a \$10 million pledge from billionaire investor-philanthropist George Soros.

Partnership for America's Families: Also run by Steve Rosenthal, this 527 organization is looking to raise about \$12 million, mostly from labor unions, for a large voter-registration drive in urban communities. To date, the group has garnered about \$3.5 million and has already registered some 65,000 new voters in Philadelphia.

Voices for Working Families: Led by Arlene Holt-Baker, a former assistant to AFL-CIO President John Sweeney, this 527 aims to raise about \$20 million for reg-

istering, educating, and mobilizing African-American, Hispanic, and working-women voters. The group has received significant funding from the American Federation of State, County, and Municipal Employees.

America Votes: Run by Cecile Richards, a former aide to House Minority Leader Nancy Pelosi, D-Calif., this 527 organization's purpose is to provide coordination among the various outside Democratic groups. America Votes is seeking to raise about \$3 million.

Grassroots Democrats: Another 527 with a labor-movement pedigree, this group hopes to raise \$12 million to underwrite state parties' grassroots efforts in 2004. The group, run by former AFL-CIO campaign director Amy Chapman, has pledges of about \$1 million and is soliciting individuals, trial lawyers, and unions for donations.

■ REPUBLICAN GROUPS

Progress for America: Tony Feather, a key operative in President Bush's 2000 campaign who is close to White House political strategist Karl Rove, set up this 501(c)(4) about two years ago. Originally, the group ran ads supporting Bush's agenda on such issues as education and tax cuts. It is now looking to raise donations of \$40 million to \$60 million for a TV issue-ad blitz and grassroots efforts in the 2004 campaign. Feather recently turned over the reins to Chris LaCiv-

ita, a former issue-advocacy director at the National Republican Senatorial Committee. Progress for America is organizing a board of prominent Republicans to help rake in money. Ben Ginsberg, the chief outside counsel to the Bush re-election campaign, is acting as the group's counsel and helping to organize its board.

The Leadership Forum: Run by lobbyists Susan Hirschmann, the former chief of staff to House Majority Leader Tom DeLay, R-Texas, and former Rep. Bill Paxon, R-N.Y., this 527 organization will try to bolster GOP House candidates by focusing on issues of broad concern to voters. The forum recently launched an effort to create a large advisory board of donor-fundraisers who can bring in or contribute at least \$25,000 apiece.

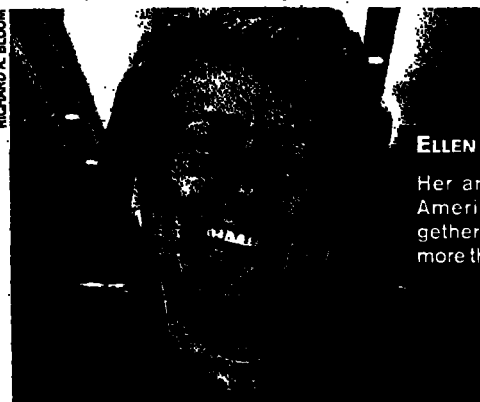
Americans for Job Security: This is a 501(c)(6) organization that in recent years has raised several million dollars per election cycle, and spent the money on issue ads in key states with competitive races. The group, run by David Carney, a longtime GOP operative based in New Hampshire, wants to expand its operations next year. About 500 corporate and individual members help subsidize the organization with contributions that have been as high as \$100,000.

Americans for a Better Country: A 527 organization that was recently formed by lobbyist Frank Donatelli and two other GOP supporters, this group has been focused on getting an advisory opinion from the Federal Election Commission

on permissible activities for 527s. Some analysts think the group's mission might be to secure an FEC ruling that would curb the activities of the more-mature, Democratic 527 groups.

—Peter H. Stone

SOURCE: *National Journal*



ELLEN MALCOLM:

Her anti-Bush group, America Coming Together, hopes to raise more than \$90 million.

curb the activities of the more-mature, Democratic 527 groups.

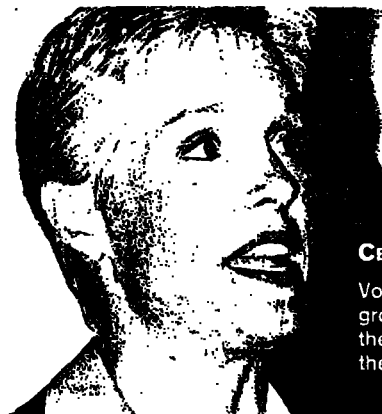
—Peter H. Stone
SOURCE: *National Journal*

the parties. These groups are identifying, educating, and registering voters, and even running issue ads. Because many of these groups are tax-exempt under Section 527 of the Internal Revenue Code, they're known as 527 groups. So far, left-leaning 527 groups outnumber GOP-friendly ones, but Republicans are eager to catch up.

A visit to the fourth floor of a downtown office building at 888 16th St. in Northwest Washington shows just how well organized the new pro-Democrat 527 groups have become. This floor houses no fewer than four separate, but allied, 527 groups that are toiling to elect a Democratic president in 2004.

The big four are America Votes, an umbrella group that is coordinating the activities of multiple environmental, labor, civil-rights, and women's groups; America Coming Together, a group that has already collected millions of dollars for a massive voter education and get-out-the-vote drive in targeted states; and two labor-affiliated groups, the Partnership for America's Families, and Voices for Working Families.

GETTY IMAGES



CECILE RICHARDS:

Vows to ensure that her group "is within not just the letter of the law, but the spirit of the law."

For good measure, the floor will soon welcome another group, the Media Fund, which is also working in tandem with these groups and will be conducting a huge TV issue ad drive in many of the same states. All told, the groups are hoping to raise some-

where between \$200 million and \$300 million in soft money. (For a list of these and other new groups, see box on p. 3803.)

Progressive leaders say they set up shop for several reasons. One is their perception that the soft money once directed to the Democratic Party is now up for grabs. Another is the fear that President Bush, with his \$170 million fundraising target (he's already raised \$110 million) will swamp his Democratic rival. Progressive activists also point to the growing importance of one-on-one voter contact as a political tool.

"There's nothing new or different about organizations being active about communicating with their members or

INSIDE TWO OF THE SOFT-MONEY HAVENS

In the 2000 presidential campaign, the Bush-Cheney campaign committee—Progress for America—launched Progress for America in 2001 to help build public support for the president's agenda. Recently, it has morphed into an organization that will use soft-money donations for advertising and grassroots efforts to boost Bush and other GOP candidates in 2004 races.

Feather is now doing fundraising and other work for Bush-Cheney '04. He was concerned, sources say, over whether he could legally lead his organization while also working for the president's re-election campaign, and so he handed over the reins of Progress for America a few months ago to Chris LaCivita, a former issue-advocacy director at the National Republican Senatorial Committee.

Progress for America bills itself as a conservative "Issue Truth Squad" against liberal interest groups that "attack and defame" Bush and other leaders who are trying to enact "commonsense public policies that benefit all Americans." To give those policies a push, fundraising sources say, Progress for America hopes to pull in donations

of between \$40 million and \$60 million for television ads, direct-mail and Web-based outreach, and other efforts on issues ranging from the economy to national security. As a tax-exempt 501(c)(4) group, the organization is allowed under IRS rules to spend up to 49 percent of its resources on issue advocacy and up to 51 percent to contact its members to advocate for specific candidates.

The group's counsel is Ben Ginsberg, a partner at the law and lobbying firm Patton Boggs and an election-law specialist who is the chief outside counsel to the Bush re-election campaign. Ginsberg has been talking across the country to prominent fundraisers who could serve on the group's advisory board and help to rope in large soft-money contributions. Some of these individuals have already raised hard money for the Bush re-election campaign.

One such person is Sig Rogich, a former U.S. ambassador to Iceland who helped raise hard money at a November 25 Bush fundraising event in Las Vegas. The day before the event, Ginsberg met with Rogich in Las Vegas,

On the Republican side, Tony

Under the campaign finance law that the Supreme Court upheld, soft-money entities must operate independently and have no coordination with party or campaign committees.

On the Republican side, Tony

3805

busters. His Media Fund and America Coming Together are collaborating on fundraising and strategy, and are shooting to haul in a combined \$165 million to \$190 million. So far, the duo have raised close to \$50 million, Ickes said. America Coming Together is led by Steve Rosenthal, the former political director of the AFL-CIO, and by Ellen Malcolm, the president of EMILY's List, the Democratic women's PAC.

The Media Fund and America Coming Together plan separate but coordinated TV ads and a voter education/mobilization drive in as many as 17 battleground states next year. Big donors in New York City and Hollywood have been generous, and members of America Coming Together's high-powered board have chipped in. Seven-figure donors include Rob Glaser of Real Networks, a Seattle-based high-tech firm, and Rob McKay, a San Francisco-based investor who runs the McKay Investment Group.

Rosenthal is also spearheading another 527 group, the Partnership for America's Families, to register voters in big cities. Bankrolled by labor, the group has roped in about \$3.5 million to date, and aims to raise \$10 million to \$12 million. It's one of only several new pro-union 527 groups on the scene, including Voices for Working Families, which is headed by two AFL-CIO veterans, Arlene Holt-Baker and Suzy Ballantine.

For months, these and other fledgling Democratic soft-money efforts have left Republicans shaking their heads and grumbling that they'll be outgunned and outspent in next year's campaign, despite their huge hard-money advantage. Many GOP lawyers and fundraisers had been holding back until the Supreme Court ruled.

But now several Republican groups are making their move. The leading soft-money vehicle seems to be Progress for America, a 501(c)(4) group that was organized about two years ago to sponsor issue ads and grassroots efforts supporting the Bush administration's agenda. The group was founded by Tony Feather, who was political director in the Bush 2000 campaign and is tight with White House strategist Karl Rove. (See box, pp. 3804-05.)

Another potentially influential Republican group is the Leadership Forum, which was started late last year by two big-name lobbyists—former Rep. Bill Paxon, R-N.Y., and Susan Hirschmann, the former chief of staff to then-House Majority Whip Tom DeLay, R-Texas. The group is planning issue-advocacy efforts to help House candidates in key races.

Still another 527 group, Americans for a Better Country, was recently started by three well-wired GOP stalwarts in Washington. So far, ABC has mainly asked the FEC for an advisory opinion about what kinds of activities can be undertaken by a 527 operation that is raising soft money.

"We're in the very early stages," said Frank Donatelli, a lobbyist and GOP operative who formed ABC along with George Terwilliger, a prominent lawyer and former deputy attorney general, and Craig Shirley, a public-relations guru. Donatelli added that the group was formed to "make Republicans comfortable with 527s." Now that the Supreme Court has ruled and other groups are moving ahead, "it's a question of determining the rules of engagement," he said.

Political observers are watching closely to see how the FEC responds to ABC's advisory opinion request. Reform experts warn of a serious risk that the agency will open the door for substantial new abuses. As the high court's recent ruling pointed out, it was an FEC advisory opinion issued some two decades ago that opened the floodgates for soft money.

"I think it's important to recognize that this process developed because the regulatory system didn't work as it should," said Trevor Potter, a former FEC commissioner who is now general counsel to the Campaign Legal Center. Potter spoke at a recent Brookings Institution forum on the Court ruling. "And I mention that because there's obviously the possibility of going through a cycle like that again."

Another danger is that the 527 organizations will not be required to adequately disclose their activities. A controversy erupted recently over a shadowy 527 group, Americans for Jobs, Health Care, and Progressive Values. The group has been running ads in South Carolina and New Hampshire targeting Democratic presidential candidate Howard Dean

CASH-STRAPPED PARTIES

Now that the Supreme Court has upheld the ban on soft-money fundraising that was enacted as part of the 2002 Bipartisan Campaign Reform Act, the national and congressional campaign committees of both parties could be hard-pressed to raise the same amount of money overall as they have in previous election cycles.

PARTY COMMITTEE	LAST ELECTION: HARD DOLLARS*	LAST ELECTION: SOFT DOLLARS	CURRENT RECEIPTS**
Republican National Committee	\$212.8 million	\$166.2 million	\$86.2 million
National Republican Senatorial Committee	\$59.2 million	\$66.4 million	\$22.9 million
National Republican Congressional Committee	\$141.1 million	\$69.7 million	\$64.4 million
Democratic National Committee	\$124.0 million	\$136.6 million	\$35.9 million
Democratic Senatorial Campaign Committee	\$48.4 million	\$95.0 million	\$17.1 million
Democratic Congressional Campaign Committee	\$46.4 million	\$56.4 million	\$21.9 million

* For the DNC and RNC, "last election" refers to the 2000 presidential campaign. For all other committees, "last election" refers to the 2002 midterm campaign.

** Through October 31, 2003, for federal campaign committees

COMPILED BY: James A. Barnes

SOURCES: Center for Responsive Politics, Federal Election Commission

and featuring Osama bin Laden. But it has refused to disclose its donors. The group must report this information to the IRS in February, but by then, the New Hampshire primary will be over.

The controversy points up the problems with public disclosure by 527 groups. While a recent disclosure law requires such organizations to report their donors to the IRS, the agency's records have so far been spotty and incomplete. The IRS reporting schedule is also intermittent, and does not jibe with the FEC's reporting cycle.

To complicate the picture even more, 527 groups are not the only kinds of organizations revving up their political activity. Some tax experts have warned that 501(c)(3) charities and 501(c)(4) social-welfare organizations are prime candidates for abuse, particularly since they face virtually no disclosure requirements. (See box, p. 3802.) "This is where, ultimately, the scandals will erupt," predicted Frances R. Hill, a University of Miami law professor.

FOR THE PARTIES, HARD TIMES

As wealthy donors redirect their checks to 527 groups and other advocacy organizations, the political parties are left looking at a lot of red ink. The entities that are most restricted by the new law are the political party committees, Democratic and Republican, House and Senate, national and state.

Little wonder that party officials are the ones most angered and offended by the high court's ruling. The activities of the new 527 groups will in many instances overlap with some of the parties' priorities, but that won't make up for withdrawing soft money from party finances.

In 2002, when the national parties could still collect soft-money contributions, the Republican National Committee took in some \$33 million at its annual gala. This year's "gala" took in just \$14 million. "That's a crystal-clear example of what campaign finance reform means," said Christine Iverson, the RNC's communications director. "There were hotdogs and peanuts served, rather than filet mignon." (For details on the party committees' altered bankrolls, see box, p. 3806.)

But changing menus and slimming down other elements of party overhead only gets you so far. Both parties understand that they have to try to raise additional hard dollars to pay for campaign activities that they formerly funded with soft money.

To raise more hard dollars, all of the federal campaign committees are boosting their direct-marketing programs to reach out to rank-and-file partisans. At the Democratic National Committee, for instance, the number of hard-dollar donors has more than doubled since January 2001.

DNC Chairman Terry McAuliffe has invested heavily in programs and a new high-tech headquarters (paid for, ironically, mostly with soft money before it was banned) to improve the party's outreach efforts to potential small donors. By upgrading the committee's voter file to 168 mil-



UNDER THE GUN:

RNC Chairman Ed Gillespie and DNC Chairman Terry McAuliffe are striving to raise more hard dollars.



REUTERS/CHARLES W. LUTZIER

lion names, DNC communications director Tony Welch boasted, the party can now tap "millions of Americans who have never received a piece of mail or message from a Democratic candidate."

The four congressional campaign committees are turning to their own members to bolster efforts to fund their operations. Rep. Robert Matsui, D-Calif., the chairman of the Democratic Congressional Campaign Committee, has called on his House Democratic colleagues to raise one-third of the committee's \$65 million fundraising goal for the 2004 election cycle. According to Matsui, that would

roughly double the amount that House Democrats contributed to the DCCC in the last election cycle.

"Now that the new law is in place, members clearly understand that we needed to go to them to raise the federal money," Matsui said. "I've been pretty impressed with the giving that's been going on." Unless Democratic members are facing a competitive contest next year, they are expected to make a sizable contribution to the DCCC from their own campaign committee or leadership PAC. "Many will give \$70,000, and many will give more than that, six figures," Matsui said.

Likewise, the National Republican Congressional Committee is asking its members to pony up. "We will not meet our goals if [House Republican] members don't step up to the plate," said Rep. Mike Rogers, R-Mich., the NRCC's finance chairman. To meet that responsibility, GOP incumbents are frequently called on to host regional fundraisers for the committee in their districts. While he declined to comment on the NRCC's member-driven money goals, Rogers said he was pleased with the efforts to date.

Even though the new campaign finance law allows individuals to increase their hard-dollar contributions—up from \$40,000 per election cycle to \$50,000—to the national party committees, the higher limit is unlikely to significantly increase the parties' revenues. The CEOs who once wrote corporate soft-money checks to party committees are apparently loath to open their personal checkbooks. "You'd be surprised how few people want to do that," Rogers said. "They don't call it hard money for nothing."

Moreover, it's unclear whether the congressional campaign committees and their candidates will benefit much from all of the activity by outside groups, which are largely concentrating their efforts on the top of the 2004 ticket in presidential battleground states. "If you're a Democratic donor looking to give soft money to a cause, the presidential effort is far and away your first concern. Then, a distant second, comes the Senate, and bringing up the rear is the House," one knowledgeable Democratic operative said.

While the 2002 campaign finance law is designed to prevent federal candidates and national party committees from raising soft money, it could affect state parties just as severely. The FEC gave state parties a significant green light in 1990, when it issued regulations permitting them to pay for generic party activities, including advertising, with a greater portion of soft money than the national parties could.

In the 1996 election, first the DNC and then the RNC funneled millions of soft dollars to state parties to pay for television ads promoting their presidential standard-bearers. Not surprisingly, the Senate and House campaign committees of both parties



MIKE ROGERS:

The NRCC's finance chairman quips, "They don't call it hard money for nothing."

followed suit and began transferring millions in soft money to state parties to boost their candidates.

During the 2000 election season, the state parties spent more money on issue ads, many of which were designed to aid federal candidates, than they did on traditional activities such as voter mobilization and on normal operating expenses, according to a study by University of Massachusetts political scientist Raymond J. La Raja and Boston College political scientist Jennifer A. Steen.

The supporters of the 2002 campaign finance law moved to sever the soft-money ties between national party committees and their state and local cousins. The law prohibits the national party committees and their "agents" from raising soft money for state and local parties. Moreover, state and local parties may now raise soft money in amounts up to only \$10,000 from a single source to pay for their own voter registration and mobilization activities that could also affect federal candidates.

The Supreme Court decision explicitly stated that national party operatives may discuss with state party officials ways to raise and spend soft money—but may not direct that activity. Many observers believe, however, that the complexity of the reform law will discourage any coordinated activity between national and state parties. The Court ruling, "coupled with new FEC coordination rules, makes people a lot leery of dealing with each other," said campaign finance lawyer Larry Gold. "It is truly a trap for the unwary, and it's even a trap for the wary."

Democrats have particularly relied on synchronized spending by their candidates and by their national and state party committees to help make their campaign dollars go as far as possible. So Democrats naturally are pessimistic about the law's consequences. "It's a killer for coordinated campaigns," said one Democratic legal strategist.

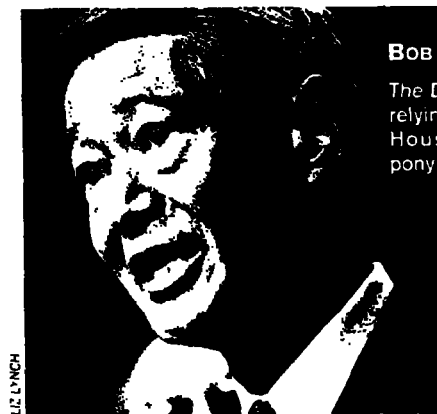
Taken in total, the law's impact on the parties could be crippling, some strategists fear. And some Democrats worry that outside groups could actually supplant their national party.

"The Democratic National Committee will be weakened [by the law], because it's just harder for us to raise hard money," said Joe Cari Jr., a Chicago lawyer who was the DNC's national finance chairman for the 2000 general election. "What will happen four years

from now is, these groups will have mushroomed into their own little primaries, with candidates competing for their money and grassroots organiza-

tions—all to the demise of the DNC."

Some campaign finance experts counter that the law will, in the long run, actually make the parties healthier. "The parties are going to come out of this stronger than they were, in large part because the law has forced them



BOB MATSUI:

The DCCC chairman is relying on Democratic House members to pony up for his group.

LEZ LYNCH

to redirect their appeals from a handful of major corporations to hundreds of thousands of smaller donors," said Tony Corrado, professor of government at Colby College in Waterville, Maine.

SUPERBUNDLERS AND CELEBRITY FUNDRAISERS

There's little doubt that the 2004 election will look a lot different from the 2000 presidential race. Some of the changes in patterns of raising and spending money were well under way before the new law took effect in the fall of 2002, but the law accelerates the trends. And the Supreme Court ruling signals that the new political model is here to stay.

The biggest change, of course, is that hard money is now king. While outside groups may be raising unregulated soft money, they are hobbled by uncertainty about what role they will be permitted to play under the law, and by rules

"superbundlers" these days are President Bush's "Rangers" and "Pioneers," who have raised record amounts for his campaign.

Also gaining leverage are politicians themselves, particularly those in leadership posts. "The whole move toward candidate-to-candidate giving, or candidate-to-party giving, is going to be very important, and is likely to increase the role of members of Congress—particularly in party fundraising," Corrado said.

This is doubly true for celebrity fundraisers, such as Sen. Hillary Rodham Clinton, D-N.Y., who has raised millions for her influential leadership PAC and for her colleagues. Clinton's success reflects not only her international stature as a former first lady, but also her ideologically-driven message. Similarly, Dean has raised record amounts of hard-dollar contributions with his fiery appeals to Democratic base voters. Democrats are salivating at the thought that Dean may be able to turn his loyalists into donors for the party.

Both Clinton and Dean have aggressively used a tool that's coming into its own under the new campaign finance rules—the Internet. In its regulations implementing the new law, the FEC exempted Internet communications. The law's authors have objected in court, charging that the exemption undermines the law. In the meantime, Internet activity, from e-mail messages to advertisements, has become a wide-open political field.

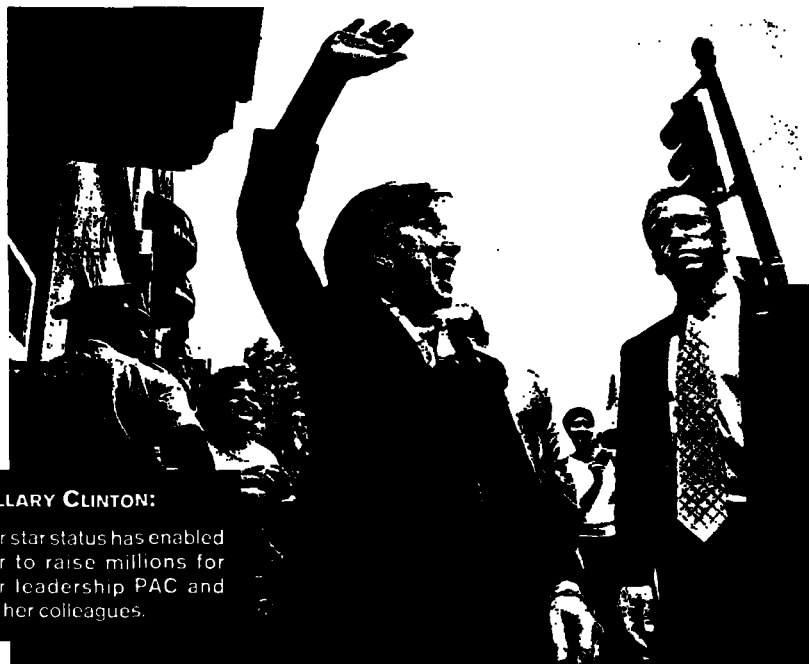
"This is going to accelerate the arrival of the digital age in political communications," said Rosenberg of the New Democrat Network. The Internet also turns out to be tailor-made for the other major trend that's altering political campaigns—the move away from TV advertising and toward grassroots activity and one-on-one voter contacts. The Internet is "not about donors," Rosenberg said. "It's about building community."

The shift toward grassroots and "ground-war" politics—built around everything from phone banks to billboards, direct mail, e-mail, and door-knocking—was under way before the new law was enacted. Still, certain provisions of the law make such grassroots activities more important.

Under the old rules, interest groups routinely used soft money to pay for "issue" ads that were really thinly-disguised campaign ads. The new law requires any broadcast ad that supports or opposes a candidate at election time—that is, 30 days before a primary and 60 days before a general election—to be paid for with hard money. TV had already gone out of vogue because the airwaves were so saturated, argue many interest group activists, but the strict new rules solidify that trend.

"Notwithstanding the Supreme Court's decision last week, we've learned that the more we localize our outreach, the better our results," said William C. Miller, vice president and national political director of the U.S. Chamber of Commerce. The chamber has launched a Web site, www.vote4business.com, that gives employers a place to steer employees who want to register to vote and learn about candidates.

"We're increasing our one-one-one relationships in the



HILLARY CLINTON:

Her star status has enabled her to raise millions for her leadership PAC and for her colleagues.

that now strictly limit their broadcast advertising. The candidates and parties are now focused on raising hard money, which can be spent, without second-guessing, on the full gamut of political activities.

In the days before soft money began to dominate modern politics, labor unions, corporations, associations, and interest groups raised their hard money through PACs. During soft money's heyday in the 1990s, PACs began to dwindle, hampered by their \$5,000 per-election per-candidate contribution limit. Now they are back with a vengeance.

"What I've been advising my clients is, 'If you don't have a PAC, get one,'" said Brett Kappell, a partner with Powell, Goldstein, Frazer, and Murphy, who gives campaign finance advice to a variety of corporate clients. "If you have a PAC and it's bringing in less than \$100,000, then you have to take a serious look at what your fundraising techniques are. Because the demand is going to increase incredibly."

Another old fundraising technique that's come back into style is "bundling." The soft-money ban has put a premium on individuals—lobbyists, CEOs, party loyalists—who can collect small hard-dollar checks in large numbers. The

community, through community meetings, through rallies, through walking neighborhoods and going door to door," concurred Margaret Conway, national political director of the Sierra Club. The Sierra Club's 527 group, which Conway anticipates will spend some \$7 million to \$10 million in this election, has substantially shifted its budget away from broadcast ads and toward organizing and direct contact.

WHAT LIES AHEAD

For all its seeming finality, the Supreme Court's ruling leaves a surprising number of questions unanswered. A looming area of uncertainty is whether the FEC's existing regulations will stand. The law's House authors, Reps. Christopher Shays, R-Conn., and Martin Meehan, D-Mass., have challenged the regulations under the Administrative Procedures Act, charging that they were arbitrary and capricious, and contrary to the law's intent.

Among other complaints, Shays and Meehan claim that the FEC too narrowly defined "coordination" between an outside spender and a candidate. A principal goal of the law was to tighten the coordination rules, which were considered unduly lax under the old law, the Watergate-era Federal Election Campaign Act.

Ironically, the new regulations are even less stringent than were the coordination rules under the FECA, Shays and Meehan argue. This could pave the way for rampant coordination between partisan 527 groups and political parties, and render the soft-money ban meaningless. The lawsuit is in the hands of U.S. District Judge Colleen Kollar-Kotelli, who served on the three-judge federal panel that first reviewed the new campaign finance law. She is expected to issue a timetable by late December, and could rule anytime in the next few months.

"I think that the Supreme Court's ruling was very clear [and] direct," Meehan said, "and I think that that ruling may help us in our efforts to make sure that there are no new loopholes" created by the FEC.

Campaign finance experts are not exactly hopeful, however, that the FEC will rise to the occasion. The incoming FEC chairman, Republican Commissioner Bradley Smith, has argued that both the 2002 law and the FECA are unconstitutional. (Smith has, however, pledged to uphold the law.)

Democrats on Capitol Hill have angered reform advocates by moving to replace longtime Democratic FEC Commissioner Scott Thomas—a staunch defender of the rules—with Robert Lenhard, who joined the constitutional challenge to the 2002 law as associate general counsel to the American Federation of State, County, and Municipal Employees.

Pro-reform lawmakers have so little faith in the FEC that they have introduced legislation to replace it. Introduced in July, the bill would create a three-member agency with stronger enforcement powers to replace the existing, six-member commission, which is evenly divided between Republicans and Democrats.

"I think the FEC's under a lot of scrutiny in terms of the regulations they issue, in terms of the advisory opinions they write, and in terms of their enforcement decisions," said Don Simon, outside counsel to Common Cause and a partner at the Washington law firm Sonosky, Chambers, Sachse & Endreson. "They have been clearly identified as the source of the problem. That's why the legislation was introduced to replace them. This is not a small problem or a superficial problem. This goes to the core of the way that the agency is structured, and its culture. And I don't think there's a sure solution, short of starting over."

Replacing the FEC isn't the only new item on reform advocates' agenda. As Feingold put it, "We have a full plate of things we still want to do." Also in July, congressional reform advocates introduced a bill that would furnish candidates with free TV time. In November, they introduced yet another bill, to overhaul the presidential public financing system, which is widely regarded to be in crisis.

Realistically, none of these bills is likely to come to the House or Senate floor before this session of Congress wraps up in late 2004. But reform-minded lawmakers are pinning their hopes on 2005. They will probably push first for presidential-financing fixes, which aim to inject new resources into the system and make it more appealing to candidates. "The 2004 presidential campaign will be the best evidence that the system is broken and needs to be fixed," Meehan said.

Still, reform advocates have no illusion that the next wave of reforms will be any easier to achieve than the last. After all, it took more than eight years to pass the McCain-Feingold law. FEC reform, in particular, has always been a hard sell on Capitol Hill. There might even be a push to undo the recently upheld

rules, either from Democrats fed up with their financial disadvantage, or from Republicans who hope for changes in the makeup of the Supreme Court.

"The people who are in favor of freedom in America are not going to give up," declared James Bopp Jr., an Indiana lawyer who was part of the legal team challenging the 2002 law. "They are going to continue to fight in the courts and in the legislature. And if there are votes in Congress to repeal some of these pernicious provisions, then of course that is one remedy. And when the Supreme Court changes, that will be another opportunity."

In the meantime, the Court's ruling has ushered in a new political regime full of unanswered questions, complexities, and power shifts. As Brookings Senior Fellow Thomas E. Mann observed at the think tank's recent forum on the ruling: "This is just the beginning, not the end."

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JAMES BOPP:

"The people who are in favor of freedom in America are not going to give up."

Money, Votes Pursued for Democrats

Many Groups Formed to Offset Campaign Finance Curbs, Overcome GOP Edge

By Thomas B. Edsall
Washington Post Staff Writer
Sunday, December 7, 2003; Page A08

Liberal organizations are gearing up to spend an unprecedented \$300 million in a determined bid to defeat President Bush.

More than 40 groups plan to fund get-out-the-vote efforts and television issue ads, assuming the traditional role of Democratic Party organizations because of the party's limited resources as a result of the ban on soft money contributions under the McCain-Feingold campaign finance law. The effort involves such established organizations as the Sierra Club, the NAACP and the AFL-CIO, and has spawned a network of new groups, including America Coming Together (ACT) and the Media Fund, both of which have set \$95 million fundraising targets.

"We're not willing to stand by and watch the Bush administration and their allies inflict their extremist policies on our families for another four years," ACT declared in a recent fundraising solicitation. "Now we are joining together to say NO."

Under McCain-Feingold, parties are banned from collecting donations known as "soft money" from unions, corporations, trade associations and individuals. But many of the "independent" groups, known as 527's from the section of the tax code under which they fall, can accept unlimited donations from all those sources.

Democrats hope the groups will help them compete with the fundraising machine built by the White House and congressional Republicans. Before McCain-Feingold, Democrats had achieved considerable success in raising large amounts of soft money. But Republican Party organizations have traditionally encountered far less difficulty than their Democratic counterparts in raising money in still-legal smaller donations known as "hard money," and this year is no exception.

In the first nine months of this year, Republican National, Senatorial and Congressional committees raised \$173.5 million, compared with the \$74.9 million raised by the Democratic National, Congressional and Senatorial committees. President Bush, running unopposed, has raised at least \$110 million, far more than any of the Democratic contenders.

But the GOP and its allies are attempting to halt the flow of cash to the pro-Democratic groups. House Administration Committee Chairman Robert W. Ney (Ohio) has received authority to subpoena the heads of the Democratic soft money groups after they declined a request to testify before his committee and explain how they are not in violation of

federal campaign finance law. In addition, a group of Republicans is seeking an advisory opinion from the Federal Election Commission on the legality of many of the activities of the Democratic organizations.

For the most part, Republican donors are waiting for the Supreme Court to rule on the constitutionality of the McCain-Feingold law before they start writing checks to Republican-affiliated independent groups. However, a number of pro-Republican groups, such as Progress for America, the Committee for Justice and the Club for Growth, have run television ads in recent months criticizing Democrats or praising Republicans.

"Our George Soros types are waiting for the Court to give the final okay. When it does, then you'll see some action on our side," one GOP fundraising specialist said.

So far, at least, the independent Democratic groups have been substantially more aggressive and successful in their fundraising, and organized labor, the environmental movement, civil rights-civil liberties groups and trial lawyers have coordinated money and resources to a degree unseen in recent decades.

Twenty-two of the organizations have each kicked in \$50,000 to finance an umbrella organization, America Votes, run by Cecile Richards, former top aide to House Democratic leader Nancy Pelosi (Calif.). America Votes will serve as a "traffic cop" to make sure that groups are not wasting money and manpower on duplicative activities.

ACT has received \$10 million contributions from financier Soros and insurance magnate Peter B. Lewis, and last week held a highly publicized and well-attended Hollywood fundraiser. ACT is expected to play the central role in the voter mobilization work of the America Votes groups.

Another organization, the Media Fund run by former Clinton aide Harold Ickes, has joined forces with ACT to raise money. While ACT is the major "ground war" vehicle for the Democratic groups, the Media Fund will finance radio and television commercials.

Lead fundraising responsibility for both ACT and the Media Fund has been assumed by Ellen R. Malcolm, president of Emily's List, an organization that backs female Democrats who favor abortion rights.

Over the next 11 months leading up to the 2004 general election, the groups will be flooding 17 key states with campaign workers, mail, phone banks and radio and television commercials, all with the single goal of putting a Democrat in the White House.

In the 2002 elections, the Republican Party for the first time in recent memory threatened Democratic dominance in what is known as the "ground war," the get-out-the-vote efforts at which unions, civil rights groups and urban machines have excelled in the past. In many respects, this \$300 million collective drive by pro-Democratic organizations is an

effort to reassert Democratic superiority in the face of Republican plans to vastly enlarge the GOP's 2002 program known as the "72-hour Project" in 2004.

But the drive has not been without conflict. The new groups are gaining leverage and stature largely at the expense of the national and state Democratic organizations and some of the more established groups in the liberal coalition.

Steve Rosenthal, the head of America Coming Together, the group that has received the lion's share of public attention and the biggest contributions, has butted heads with Gerald W. McEntee, president of one of the nation's largest unions, the American Federation of State, County and Municipal Employees, and leaders of black and Hispanic affiliates of the AFL-CIO.

To keep the peace, the AFL-CIO and some member unions agreed to finance a separate group, Voices for Working Families, which, until recently, McEntee chaired. Voices has a goal of raising \$20 million.

Recent tensions between ACT and the state party leaders in Iowa and Michigan may work to the advantage of another organization, Grassroots Democrats, run by Amy Chapman, who has strong ties to organized labor. Chapman's group has the goal of channeling \$12 million in contributions to state parties.

While the groups have not taken sides in the Democratic presidential primary contest, many of the supporting organizations and leaders back former Vermont governor Howard Dean, or have indicated an interest in his candidacy.

In an effort to boost the chances of Rep. Richard A. Gephardt (Mo.), many of the hard-hat unions in the building and construction trades have formed a separate group, the Alliance for Economic Justice, to press the issue of trade and promote Gephardt. The role of the Alliance in the general election has yet to be determined.

Database editor Sarah Cohen and researcher Madonna Lebling contributed to this report.

THE HILL

October 23, 2002

Both parties race to set up new soft-money mechanisms

By Alexander Bolton

Both major political parties and their closest allies are racing against a Nov. 5 deadline to set up organizations able to raise unlimited amounts of soft money.

The drive to set up alternative mechanisms to collect these unregulated funds is aimed at helping federal candidates in 2004 and beyond - when lawmakers themselves will be barred under the recently enacted campaign finance law from soliciting such unrestricted donations directly.

Meantime, the prohibition on soft-money fundraising by political parties is creating a void that's certain to spark power struggles among operatives and allies seeking to position themselves as the future power brokers for the parties.

"I predict there will be a lot set up for the House and Senate and not just by the campaign committees themselves, so nobody can predict which of these will be effective or not effective," said Sen. Bill Frist (R-Tenn.), chairman of the Senate Republican fundraising committee. "The deadline is Nov. 5, so there is appropriate rush to both design and file these organizations.

Earlier this year, the leaders of the campaign finance reform effort, Sens. John McCain (R-Ariz.) and Russ Feingold (D-Wis.), hailed its passage as the death knell for soft money.

The reformers originally believed that the kind of end around groups now being formed would be illegal under the legislation enacted by Congress earlier this year and signed by President Bush. However, a series of rulings by the Federal Election Commission (FEC) has reinstated the loophole.

Thus, the contributions they sought to ban are poised to flow through new channels, even before the law takes effect, while it is still being challenged in the courts.

Officials at the National Republican Senatorial Committee and the Democratic Senatorial Campaign Committee (DSCC) are exploring the creation of fundraising groups run by their allies outside the formal party structure.

On the House side, Susan Hirschmann, former chief of staff to Majority Whip Tom DeLay (R-Texas), will spearhead a unified effort to legally raise soft money to help

Republican candidates.

While House Democrats, stymied in part by uncertainty over whether Minority Leader Dick Gephardt (D-Mo.) will step down to run for president, have made the least progress designing soft-money conduits for next year, having held only loose discussions on the topic, a senior party source said.

The new soft-money groups, to be organized under sections 527, 501(c)(4), and 501(c)(6) of the tax code, will raise money for issue advertisements and voter contact programs that are now mostly funded by the parties themselves.

At the height of this election season, party officials have escalated preparations for the 2004 election, because they will be prohibited from setting up soft-money groups after Nov. 5.

Under a recent controversial FEC ruling, soft-money groups created by the parties before that date may continue to operate as long as the parties no longer formally control them.

"We want to make sure there are adequate conduits for our supporters to help get our message out, so we can compete with what they're doing on the other side," said Rep. Tom Davis (Va.), chairman of the National Republican Congressional Committee. "We're having stuff set up right now."

"We're making sure there are appropriate routes so that issue advocacy continues," he added. Davis said the entire House GOP leadership is involved in the effort.

But campaign finance reformers are protesting loudly, arguing that organizations set up by the party fundraising committees will not be independent, as required by the new law.

"The law said a party cannot directly or indirectly create an entity that raises soft money, any party that does that is in violation of the law," said Fred Wertheimer, who helped draft the law as president of Democracy 21, a campaign finance watchdog. "Under this statute, parties cannot set up a sham affiliate to do its soft-money raising and spending," he added.

Speaker J. Dennis Hastert (R-Ill.), Majority Leader Dick Armey (R-Texas) and Majority Whip Tom DeLay (R-Texas) currently control separate soft-money political action committees (PACs) that have raised hundreds of thousands of dollars for favored candidates. However, under the new law, they must relinquish control of those groups after the 2002 election.

Some party officials want House Republican leaders to unite their fiefdoms under one organization, such as the one that Hirshmann, now a lobbyist with the law firm of Williams & Jensen, plans to set up.

To do so, such allies of Republican leaders in the lobbying community, as Dan Mattoon

of PodestaMattoon and former Rep. Bill Paxon (R-N.Y.) of Akin, Gump, would direct donors to fund that organization. It would then serve as the preeminent soft-money fundraising vehicle on behalf of House candidates.

Hirshmann said House Republicans had not settled on the type of group they would use to get their messages out to voters.

"I'll continue to raise a lot of money to get that message out," she said. "I don't know if the mechanisms of how to do that will be determined yet. I don't think any final decisions have been made."

For his part, Frist said party officials are looking at a number of groups with plans to raise soft money to help the party.

"We have done nothing formally as the Republican National Senatorial Committee [NRSC]," he added. "We won't participate formally in filing a plan but we will have our legal group over there reviewing them to make sure they are consistent with expressing Republican interests. I don't know which one, but it will be done in the next two to three weeks."

Frist added that as of now there's not a single NRSC-sponsored plan. One Senate Republican source said the committee is looking at relying on political advocacy [501(c)(4)] or lobbying [501(c)(6)] organizations.

"[The new law] really puts outside interest groups in a much stronger position to control the marketplace of ideas," said the GOP aide. "There is a desire by the party to be involved in that."

A former high-ranking official in the Clinton administration, who will be involved in redesigning the political fundraising landscape next year, said top donors and officials at the DSCC are looking at setting up a soft-money fundraising organization for Senate Democrats.

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New Ways To Harness Soft Money In Works

Political Groups Poised To Take Huge Donations

By THOMAS B. EDSALL
Washington Post Staff Writer

Some of the biggest names in Republican and Democratic circles are establishing new groups to collect and spend the unlimited political donations that are supposed to be curbed by the recent campaign finance law.

White House political operatives, high-profile lobbyists, former aides of President Bill Clinton and staffers at the Democratic and Republican senatorial campaign committees are setting up tax-exempt organizations to raise and spend "soft money." That term refers to the large sums collected from corporations, unions, trade groups and individuals outside the normal limits on donations to federal campaigns.

One of the new organizations, Progress for America, is operating from the downtown offices of a company run by Tony Feather. He was the political director of the Bush-Cheney 2000 campaign and remains a close ally of Karl Rove, President Bush's top political aide.

Democrats are busy, too. Three former high-ranking aides of Clinton—Harold Ickes, Doug Sosnik and John D. Podesta—are working to set up a Democratic soft-money operation with the goal of running pro-Democratic "issue ads." The three are part of the informal brain trust of Democratic National Committee Chairman Terence McAuliffe.

These efforts underscore the vital role that soft money has played in recent presidential and congressional elections. Until now, the Democratic and Republican parties have

New Ways to Harness Soft Money in the Works

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been the primary recipients and spenders of such funds, which totaled about \$500 million in 2000. Soft money has been used to finance mass get-out-the-vote programs and ads that have been cloaked as issue discussions but are actually aimed at helping or hurting particular candidates.

The McCain-Feingold campaign finance law—a bitterly debated measure that will take effect on Nov. 6—was meant to sharply restrict the influence of such money, mainly by forbidding the parties from raising and spending it.

That's why political activists on both sides are frantically creating new groups to fill the gap, using provisions of the tax code that allow the creation of tax-exempt organizations that they say are not covered by the new law. These groups can raise and spend soft money as long as they do not coordinate their efforts with the political parties or candidates, according to officials involved in these undertakings.

The officials describe their initiatives as a way to make sure soft money is used on behalf of the broad interests of the two parties, not just the interests of ideological groups on the left and the right. Democrats also contend that the party faces the prospect of being overwhelmed in 2004 by a Bush re-election organization equipped to raise \$200 million to \$300 million. "Without some soft money support, the Democratic presidential candidate will be unable to compete, they say.

"It's very clear that there are going to be a proliferation of special interest committees to pick up where the parties were before on soft-money funding," said GOP lobbyist Vin Weber. "The law is going to spawn a lot of efforts to fill the gap in party financing, and the gap should be filled by entities generally committed to the broad interest of the parties."

But supporters of the McCain-Feingold measure fear that these efforts might undermine the purpose of the law by creating new conduits for soft money that require less public disclosure than was required before the legislation was enacted. They contend that these activities are purposeful evasions of the law, encouraged by the weak enforce-

ment regulations issued by the Federal Election Commission.

"To the extent the parties are planning a massive evasion scheme, they are planning massive illegal activity and they will be challenged," said Fred Wertheimer, president of Democracy 21 and former president of Common Cause.

Progress for America (PFA) is precisely the type of organization at issue.

It has raised millions of dollars, which it uses to promote Bush's agenda of tax cuts, energy legislation, conservative judicial appointments and free trade.

Although it takes unlimited donations from corporations and individuals, it discloses neither its contributors nor its expenditures.

Feather, in an interview, said PFA is simply a vehicle for building grass-roots support for Bush's policies. Many other Republicans, however, described it as the first organization designed to capture some of the soft money that the political parties will be barred from accepting after Nov. 6.

PFA has strong ties to the Republican establishment. Its spokesmen include Ken Adelman, the top arms control officer in the Reagan administration. White House operatives, such as Rove and political director Ken Mehlman, have addressed private PFA briefing sessions at the Hay Adams Hotel.

Progress for America isn't the only Republican-related group in the scene. Weber is working with lobbyists Ed Gillespie and Bill Paxon to build an organization to back GOP candidates. Gillespie has strong ties to both the Bush administration and the Republican House and Senate leadership. Weber and Paxon are former House members with extensive ties to the GOP establishment.

The clients of these three lobbyists alone gave \$19.4 million in soft money during the 1999-2000 election cycle, according to the Web site of PoliticalMoneyLine.

Simon B. Rosenberg, president of the centrist New Democrat Network, said: "The center is going to have a hard time holding in the new system. Interest groups will be more powerful tomorrow than today, and there will be a real tug to pull candidates to the extremes."

Rosenberg and others contend

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Backers Say Groups Not Covered by Soft-Money Ban

DONORS, From A6

that the flow of soft money that had gone to the parties will likely go to ideological and single-interest groups that take polarizing stands on guns, abortion, school prayer, unions and taxes, effectively driving the politicians receiving the money further to the right or the left.

To counter this, he said, the New Democrat Network will substantially expand its soft-money fundraising and will add "an aggressive paid media component to our activities." He added: "Our hope is that it will be in the millions of dollars."

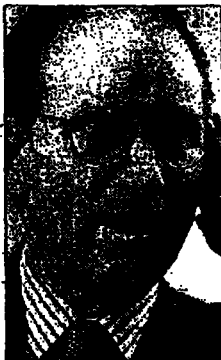
From the more liberal wing of the Democratic Party, Mike Lux, a former Clinton aide and a former political director for People for the American Way, said he and his allies plan to unveil two projects in September—which will tap liberal soft-money donors—to fill the "need for more infrastructure on [the] progressive side of things."

"What I hope," Lux said, "is that, unlike so many times in the past, those on the progressive side will actually coordinate."

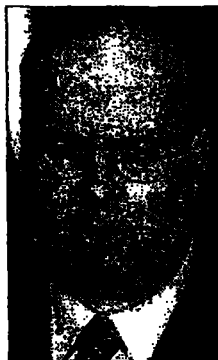
One affiliate of the Democratic National Committee—the Association of State Democratic Chairs—has already taken formal steps to create a separate organization, the Democratic State Party Organization (DSPO), to raise contributions, including soft money, for get-out-the-vote and voter registration activities.

"We must chart a new path after campaign finance reform," said Joe Carmichael, the Missouri Democratic chairman who will run the DSPO, which will be headquartered in Washington and will register with the Federal Election Commission as a political committee. "Without an organization such as DSPO, grass-roots activities and participation would be eradicated and replaced by television-only campaigns."

To preserve their ability to raise soft money,



HAROLD ICKES



KARL ROVE

FILE PHOTOS

both the Democratic and Republican governors' associations are severing all ties with the Democratic National Committee and the Republican National Committee, respectively. The groups will have to live within the new law's restriction on "issue ads" financed with soft money within 60 days of a general election or 30 days of a primary.

Both the Democratic and Republican senatorial campaign committees are exploring the creation of separate soft-money funds. Officials of the Democratic Senatorial Campaign Committee declined to discuss the work of staffers and consultants on the subject. Monica Dixon, a consultant to the DSCC, has been working on plans to channel soft money in support of Democratic Senate candidates, but she did not return phone inquiries.

Alex N. Vogel, general counsel for the National Republican Senatorial Committee, said: "We are looking at all the options for the committee, post-McCain-Feingold and post-Election Day."

A central factor shaping the new organizations is deciding how much information to dis-

close to the public. A number of operatives would prefer not to reveal the sources of the money raised or the details of how it is spent. They say they are likely to form "510c4's," tax-exempt advocacy organizations under the tax code.

Others, including Weber, Rosenberg and officials of the DSPO, say they intend to make this information publicly available by setting up what are called "527" committees, which must make regular disclosures to the Internal Revenue Service, or traditional political committees, which report to the Federal Election Commission.

Progress for America has rejected the disclosure option, and its leaders show little appetite for publicity. Adelman, who noted that he is the group's chairman, said he knows neither the organization's budget nor its sources of financial support.

"I can't tell you off the top of my head," he replied, when asked who was giving to PFA. "We get private donations from businesses and individuals."

Adelman could not remember the phone number of Progress for America, the name of the woman who runs it (Jennifer Oschal) or its address; he had to look them up in his directory. Oschal did not return a phone inquiry. At the office building address Adelman provided, the high-rent Lafayette Center complex in downtown Washington, there is no listing for Progress for America.

Instead, on the center's mezzanine floor, there are offices belonging to FLS-DCI, Feather's firm. Feather described PFA as a "grass-roots organization that supports the president's agenda." Asked to provide its membership roster or to release the names of its donors, Feather—noting that PFA has been organized under the 501c4 provisions of the tax law, which do not require such public disclosure—said, "No."

ROLL CALL

NRCC Quietly Gives \$1 Million to New 527

November 7, 2002

By John Bresnahan

In a last-minute move prompted by the new ban on soft-money contributions, the National Republican Congressional Committee has quietly given \$1 million in soft money to a recently created group run by a former aide to House Majority Whip Tom DeLay (R-Texas).

The NRCC gave the \$1 million to the Leadership Forum, a new 527 organization headed by Susan Hirschmann, who was DeLay's chief of staff until late August. Hirschmann is now a lobbyist with the firm Williams & Jensen.

Former Rep. Bill Paxon (R-N.Y.), a close DeLay ally and a lobbyist with Akin, Gump, Strauss, Hauer & Feld, serves as the vice president of the organization. Paxon ran the NRCC from 1993 to 1996.

The \$1 million gift is soft money from the NRCC's building fund several GOP sources said, although NRCC officials declined to comment publicly on the gift or what campaign account it came from.

Building-fund donations are supposed to pay for building upkeep for the NRCC. It is unclear if there are any restrictions on how the funds can be used. But the Leadership Forum may be taking over some administrative functions currently done by the NRCC, said several GOP sources, which is unexplored legal territory.

The NRCC has raised at least \$63.3 million in soft money this cycle, according to an analysis of the latest disclosure reports by the Center for Responsive Politics. More than \$4 million has been raised for the building fund.

NRCC officials expect to have spent nearly all of that soft money on Tuesday's races, although several GOP strategists believed there were large hard-money, soft-money swaps with the state parties, which can still use soft money despite the federal ban.

A lawyer for the Leadership Forum, Randy Evans, did not address the NRCC contribution directly, but he did say that the group would comply with any new campaign finance regulations currently being developed by the Federal Election Commission. There is widespread confusion about what is allowable right now in terms of soft-money activity.

"Nothing in [McCain-Feingold] restricts a private citizen from being a member or a leader of a political organization. Nor does any other federal law," said Evans. "What is not permissible is the coordination of political activities with officeholders or party leaders, so obviously we will not engage in this type of coordination."

Hirschmann and Paxon will now have to be extremely careful about what kind of contacts they have with DeLay and other GOP leaders. But informed sources say there is no restriction on DeLay or other House Republicans from attending Leadership Forum events, or even having his name on the invitations, as long as he does not raise money directly for

the group.

Both the NRCC and its Democratic counterpart, the Democratic Congressional Campaign Committee, as well as the Senate campaign and national committees, have been scrambling to set up new entities to take in soft money. Under the McCain-Feingold law, the national parties and Members of Congress are not allowed to raise soft money, the unregulated contributions from labor unions, corporations and wealthy individuals.

For instance, Monica Dixon, a onetime DCCC political director and aide to former Vice President Al Gore, registered the Democratic Senate Majority PAC-Nonfederal Account with the Internal Revenue Service this week. Dixon used the address of Perkins Coie, a law firm that does most of the legal work for Democratic leaders and campaign committees, for her new organization.

Two other new 527s, one for House Democrats and another called the Democratic Issues Agenda, were also registered using the Perkins Cole address.

Steve Rosenthal, the outgoing head of the AFL-CIO's political operation, may set up his own 527 as well, although he has not done so yet.

The New York Times recently reported that Democratic National Committee Chairman Terry McAuliffe urged big donors to raise \$40 million for the Democratic State Party Organization, another 527, although McAuliffe denied using that figure.

Susan Crabtree contributed to this report.

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ROLL CALL

GOP Leadership Races Heating Up

November 11, 2002

By Susan Crabtree

While most House Republicans are savoring last week's historic victories, a handful of ambitious GOP lawmakers have sharpened their campaign tactics as they furiously buttonhole colleagues in the final days before Wednesday's leadership elections.

Although Majority Leader Dick Armey (Texas) and GOP Conference Chairman J.C. Watts (Okla.) will retire at the end of the session, and National Republican Congressional Committee Chairman Tom Davis (Va.) has decided to give up the post, just weeks ago the process to fill their seats at the leadership table appeared relatively smooth and free from the usual negative hardball campaign tactics.

The moderate faction of the Republican Conference voiced criticism early on when current Majority Whip Tom DeLay (Texas) and Chief Deputy Whip Roy Blunt (Mo.) raced to cement their joint ascendancy to the No. 2 and No. 3 leadership positions, respectively, after Armey announced his retirement last year.

By now lawmakers have had ten months to get used to the idea and barring any unforeseen events, the two will win their respective titles with minimal effort or fanfare this week.

Blunt only increased his currency by breaking election-year records in the Battleground 2002 fundraising program he spearheaded. The program raised a total of \$23.9 million, including an unprecedented \$16.4 million in hard money.

But in the three contested leadership campaigns, there have been a series of late developments.

Current Conference Secretary Barbara Cubin (Wyo.) dropped out of the race for the vice chairman slot last Thursday. She decided to spend more time with her husband, who has been seriously ill for the past two years.

After such a successful election, the race to lead the National Republican Congressional Committee has taken center stage.

NRCC

Davis has been basking in the glow of last Tuesday's historic outcome. But his departure has been planned for at least a year and a half - the same amount of time that the two candidates have been waging aggressive campaigns for the critical leadership post.

Reps. Tom Reynolds (N.Y.), and Jerry Weller (Ill.) have directed a combined total of some \$3 million to GOP incumbents and challengers this cycle. Reynolds said he contributed \$530,000 to candidates from his political action committee and raised \$1.1 million on behalf of candidates, while Weller said he doled out \$456,00 from his personal committee and leadership PAC and raised nearly \$1 million for candidates.

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Reynolds remains the odds-on favorite and is unofficially the candidate of choice among GOP leaders, but Weller, the current NRCC finance chairman, has campaigned relentlessly and has kept the contest alive. Both candidates crisscrossed the country, appearing at events for candidates and cutting checks at a furious pace.

With Weller as finance chairman, the NRCC raised a record \$163 million overall. His spokesman, Ben Fallon, said that accomplishment has helped his boss' support reach "the triple digits."

"Jerry Weller was on the road 160 days and he was in every targeted race in the country," he said.

Other GOP leadership aides brushed aside such claims, stating flatly that Reynolds will be the next chairman.

Another Republican staffer noted that the timing of Reynolds' Wednesday luncheon for incoming freshmen, which will occur from 12:30 to 1:30 p.m. - right before Republicans meet to hear the last pitches from candidates and vote - demonstrates that he is still campaigning hard for the job.

Reynolds would not release his numbers, but said he is optimistic about the vote and "couldn't be happier" about where he stands in the homestretch.

The winner will be forced to operate in a dramatically new fundraising world. Right after the midterm elections, the new campaign finance law took effect that bars national party organizations from raising or spending soft money.

Reynolds said that, if elected, he would help the the party committee become "a smaller, smarter, leaner NRCC."

"We're going to have to watch very closely with our counsel about the new law and watch what the courts rule about the constitutional issues it raises, as well as the [Federal Election Commission's] new regulations," he said. "We are going to make sure we are in compliance."

In his finance chairman role, Fallon said that Weller has been "leading the charge" to make the transition to hard money. For instance, he organized a sendoff event for Arney and Watts that raised several million dollars, the majority of which was hard money contributed from thousands of individual donors who flew in from around the country for the event.

"That's really the future of fundraising," Fallon said.

Reynolds, who has organized some of the largest fundraisers of the year, heaped praise on Davis.

"Davis as chair has produced tremendous results, and I'm just proud to play a small role in it as the chairman of the NRCC executive committee," he said. "Our success in the majority has been the teamwork from everybody from the Speaker to the newest Member."

Despite the soft money ban, numerous shadow organizations cropped up in the days leading up to Nov. 6, when the new law took effect. These groups maintain they are separate from lawmakers and political organizations, but are either run by former staffers of lawmakers or political organizations and operatives close to them.

When asked how his boss views this practice, Fallon said Weller would watch and see how

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the new regulations are written and interpreted.

"We're in uncharted territory right now,"he said.

As one of the Members who signed off on the decision to send \$1 million in soft money from the NRCC's building fund to one of these new political groups, the Leadership Forum, Reynolds defended the decision.

"I supported the vote,"he said. "The building fund had to be disposed of. We followed the letter of the law."

Speaker Dennis Hastert (Ill.) and DeLay, who is set to move into the Majority Leader position Wednesday, have repeatedly vowed to remain neutral in the races.

But some GOPsources familiar with the campaigns claim that DeLay staffers have advised at least a couple of newly elected freshmen to support Reynolds and current Vice Chairwoman Deborah Pryce (Ohio), who is trying to succeed Watts. Rep. J.D. Hayworth (Ariz.) is running an intense campaign against Pryce and Rep. Jim Ryun (Kansas) in the Conference chairman race.

DeLay's aides flatly deny contacting freshmen or any other Members about the leadership positions.

"Tom has good relationships with everyone involved in the leadership elections,"said DeLay Chief of Staff Tim Berry. "I think most of [the candidates] have worked in the whip organization and have done a great job. For that reason he thinks they will make excellent choices and has not gotten involved in the races at all."

Conference Chairman

Hayworth, Pryce and Ryun spent many hours on the phone in the past week, canvassing newly elected freshmen and undecided lawmakers, in an effort to expand their level of commitments.

Pryce spokeswoman Jessica Incitto said late last week that her boss was approaching 140 commitments in the Conference, while Hayworth claims 83. Ryun will not release his numbers, but he has earned the support of Republican Study Committee Chairman John Shadegg (Ariz.),who likely adds at least a dozen lawmakers to Ryun's camp, estimated by some to be roughly 40 Members strong.

But some Members have clearly given commitments to more than one candidate in the race, which will be decided by secret ballot, because there are expected to be only about 228 Republicans in the new House (depending on recounts, a runoff and a special election).

If Hayworth's and Ryun's commitments pan out in the ballot box, they would have enough combined support to throw the election to a second ballot, with the top two votegetters contending for the title.

The already-furious campaigning increased this week as the three candidates sent out a flurry of letters and material to colleagues. Hayworth plans to send a video of himself talking about his qualifications, while Pryce will send out an 11-page bound outline of her plans for the position - complete with color photos of her with President Bush and various GOPleaders.

The gloves also appear to be officially off in a campaign that had already experienced attacks on Pryce's decision to adopt a newborn baby last year and the time constraints

some conservative members of the caucus believed the leadership position would place on her.

The day after the election, Hayworth sent a letter taking Pryce and Ryun to task for failing to make TV appearances and demonstrate a commitment to communicating the GOPmessage.

"In the last two years I've made over 100 cable television appearances alone,"he said. "My opponents?A combined one."

Hayworth also tacitly attacked those who have said that Republicans need a woman in the leadership and have given Pryce the edge in part for that reason, as well as others who are supporting Ryun, even though he has played a limited role in GOPleadership and political programs.

"Others would have you cast your ballot on issues totally unrelated to the central question of who is the best-qualified candidate," wrote Hayworth. "But with a still-slim majority, we can't afford to indulge in political correctness or take a chance on experience."

Pryce's last letter stressed her already strong support and provided a glimpse of some of the services she would provide Members.

"I have secured commitments of support from a majority of our colleagues, but the more unified our Conference team the better, and it is important for me to have the support of all the members of the Conference," she said.

Ryun, who has thus far stayed out of the crossfire, took his share of shots this week as well. The Kansas Republican took exception to Hayworth claims in his last letter that the Arizona Republican represents a more marginally GOPdistrict than the other contenders in the race.

"The percentages tell a different story,"Ryun said. "His numbers are 42.4 (percent Republican) and mine are 42.8 (percent Republican)."

He also said that Pryce's 11-page plan mimicked the one he distributed months ago.

"I was the only one to deliver a plan, and I did that early on,"he said.

Ryun, an Olympic medallist, was also encouraged by his level of name recognition when calling freshman Members.

"When I call them they remember what Iused to do," he said. "It's very encouraging."

Vice Chairman

With Cubin bowing out of the vice chairman contest, the race is now a choice between Reps. Jack Kingston (R-Ga.) and one-term Rep. Melissa Hart (Pa.).

Although Hart has not been shy about buttonholing Members about her campaign, the race has been relatively low-key. Cubin failed to mobilize an aggressive whip operation and Kingston has kept his campaign entirely positive. Neither candidate would release his or her level of commitments, but Hart said Cubin directed supporters her way, while Kingston disputes the claim.

For the past few years Kingston has served as the chairman of the GOPTheme Team, a group that assisted the Republican Conference message strategy and the experience appears to give him an inside track to the vice chair job. As of Oct. 16, Kingston gave

\$115,000 total to the NRCC and \$11,000 to 12 candidates. Hart gave \$6,000 to the NRCC and \$36,000 to 33 candidates.

Hart stressed her youth and ability to win from a district that was 37 percent Republican in 2000. She also pointed out that she had traveled to campaign for 65 candidates this year and noted that as a single woman, she has plenty of time to devote to the job.

"I'm a unique candidate," she said. "I've got youth and energy and I've been very successful conveying a message to a district that is not traditionally Republican."

Kingston remains optimistic about his chances.

"Our efforts have been to keep the majority, not to get people's vote for leadership," he said. "The freshmen I gave money to are free to vote for anyone they want to ... I hope for the best, but Melissa is a great competitor and a tough campaigner. Should she be successful, I'm going to continue to work for the team."

Rep. John Doolittle (R-Calif.), an active member of the Whip team, is the only declared candidate for the secretary position.

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Campaign Money Finds New Conduits As Law Takes Effect

Shadow Organizations to Raise 'Soft Money'

By THOMAS B. EDSALL
Washington Post Staff Writer

With the McCain-Feingold campaign finance law taking effect tomorrow, top Republican lobbyists and Democratic operatives are putting finishing touches today on shadow organizations designed to evade the intent of the law and continue the flow of unregulated "soft money" into presidential and congressional campaigns.

These new committees are being created with full knowledge of, and advance clearance by, the House and Senate leadership, including top Democrats who led the fight for passage of the McCain-Feingold measure prohibiting the national parties and candidates for federal office from raising and spending soft money.

All the party committees, the Democratic and Republican national, Senate and House campaign committees, are engaged in setting up one or more special conduits for soft money, according to reliable sources, with each operating under varying degrees of secrecy.

"May a thousand flowers bloom," declared a Republican legal specialist who

would like to see as many soft money options emerge as possible so that financial backers can put money in to media, get-out-the-vote and other election activities of their choosing. In 2000, party committees raised and spent nearly \$500 million in soft money, and they are on track to beat that record this year.

The new law goes into effect tomorrow, and it faces immediate court challenge with briefs to be filed tomorrow in accelerated proceedings that will put the McCain-Feingold bill before the Supreme Court within months.

New committees with ties to the Democratic senatorial and congressional campaign committees will register with the Federal Election Commission today, sources said.

In addition, Harold Ickes, who was an aide to President Bill Clinton, will take responsibility for a special "presidential media" soft money committee, several Democratic sources said. A Republican group called the Leadership Forum, run by two prominent GOP lobbyists, has already registered with the Internal Revenue Service, and officials at the National Republican

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Senatorial Committee say they are helping form soft-money committees that under tax law will not have to disclose who gives money or how the money is spent.

Sen. John McCain (R-Ariz.), the lead sponsor of the campaign finance legislation, vowed to "fight these activities in the courts, in Congress, wherever we have to."

The Democrats are generally setting up committees to channel the controversial large, unregulated donations from corporations, unions and rich people that are required by law to disclose their sources of money and how they spend it on advertising, voter registration or other political activities. Most Republican strategists are creating groups that are not required to disclose the sources of money or how it is spent. "That's a no-brainer. Most donors don't want their names in the paper," said one Republican.

A new GOP committee to channel soft money to House campaigns has been set up by two prominent lobbyists, former representative Bill Paxon (R-N.Y.) and Susan Hirschmann, a former aide to House Majority Whip Tom DeLay (R-Tex.).

Paxon, vice president of the Leadership Forum, has 51 clients including drug companies, Japanese banking interests, the chemical industry and waste disposal companies. Hirschmann, the president of the committee, works in a firm with a list of lobbying clients very similar to Paxon's.

In its registration with the IRS, the Leadership Forum said it would "engage in nonfederal political activities on state and local levels and to engage in dialogue on issues of importance to all Americans."

A number of Republican lawyers who are not directly involved in the Paxon-Hirschmann venture said the two lobbyists are opening themselves up to a host of potential legal difficulties because the McCain-Feingold law sets severe restrictions on the ability of those tied to soft-money groups to communicate with federal officials, the essence of lobbying work.

"I don't know what Bill is up to, but he is

going to have Fred Wertheimer on his back demanding depositions explaining every conversation he has with any congressman. He and Hirschmann have clients who pay them to talk to the leadership. How can they put that at risk?" said one Republican election-law specialist. Wertheimer runs Democracy 21, which is one of the leading advocates of the McCain-Feingold bill and which has gone into court to force tough enforcement.

The Republican chairman in a major state volunteered: "I hope Paxon and Hirschmann help my candidates, but there is no way I'll talk to them. I'm not going to spend my days in court explaining who said what when and where."

Neither Paxon nor Hirschmann returned phone calls. In addition, two other people are listed on the Leadership Forum IRS filing: Julie Wadler, president of Epiphany Productions and former deputy finance director of the National Republican Congressional Committee, and J. Randolph Evans, an Atlanta lawyer who declares on his Web site that his clients include "the former and current Speaker of the United States House of Representatives, Newt Gingrich (R-Ga.) and Dennis Hastert (R-Ill.)." Wadler and Evans did not return phone inquiries seeking comment.

Many of those involved in creation of soft-money groups declined to provide detailed specifics on the record, for fear of legal challenges by Wertheimer, Common Cause and other groups that support campaign finance legislation. "It would be unfair to my clients," pleaded one source.

Parties Create Ways to Avoid Soft Money Ban

State Groups to Collect Unlimited Donations

By DON VAN NATTA Jr.
and RICHARD A. OPPEL Jr.

WASHINGTON, Nov. 1 — The Republican and Democratic Parties have established fund-raising vehicles for unlimited campaign checks to thwart a new federal law banning "soft money" contributions that goes into effect after the election on Tuesday.

According to party officials and fund-raisers, both national political parties have set up state organizations and other groups that will continue to collect and spend the large unlimited campaign checks after they are barred to the national political parties by the McCain-Feingold campaign finance law on Nov. 6.

At a meeting two weeks ago, the chairman of Democratic National Committee, Terry McAuliffe, told a group of 40 of the party's most prolific fund-raisers that he expected a newly created spinoff organization, the Democratic State Party Organization, to raise approximately \$40 million in soft money before the 2004 presidential election, two party fund-raisers said.

Under the McCain-Feingold bill, passed earlier this year, the national political parties cannot directly solicit or spend soft money after Election Day, but state political parties may continue to accept some unlimited donations. Independent political groups and nonprofit organizations closely allied with the political parties can also continue to raise and spend soft money.

A longtime Democratic fund-raiser who attended a secret party conclave at the Mayflower Hotel here described Mr. McAuliffe's message as boiling down to "this campaign finance reform stuff is nothing but junk." The fund-raiser, who insisted on not being named, explained: "Terry said, 'This is the last time we'll be asking you for money — after Nov. 5, we can't do it anymore. But get out there next year and in 2004 and continue to raise all this soft money.'"

Mr. McAuliffe did not return several phone calls seeking comment over the past several days. Maria Cardona, a spokeswoman for the Democratic National Committee, disputed that Mr. McAuliffe set a

dollar goal. "No one ever remembers this goal that you are talking about," Ms. Cardona said. "Terry did not say it."

Marc Racicot, the chairman of the Republican National Committee, said that while "there certainly have been some abstract discussions about what the law will allow," the committee has not set up a group to raise and spend soft money.

Of the Democratic committee's plans, Mr. Racicot added, "It appears somewhat odd that on the one hand you allegedly support campaign-finance reform, and on the other hand you set about to create, in a completely inconsistent way, an organization that undermines the very principles you are espousing."

Joe Carmichael, the president of the Democratic State Party Organization, said he recalled Mr. McAuliffe telling the donors and fund-raisers to assist the newly created party group. "When Joe calls, I want you to take his phone call," Mr. Carmichael recalled Mr. McAuliffe saying.

Some Republicans have moved to keep the soft money checks flowing after the ban takes effect on Wednesday. A Republican group, headed by the former chief of staff to the House Republican whip, Tom DeLay, will be "the House go-to operation," said Scott Reed, a prominent party strategist who ran Bob Dole's 1996 presidential campaign.

Because it is independent from other national Republican Party organizations, the group, the Leadership Forum, can solicit and accept soft money from the same donors who once wrote the largest checks to the formal party committees. "This is the way politics and campaigns will be run under the new law," Mr. Reed said.

As the ban on soft money approaches, officials of both parties have been scrambling to insure that soft money will continue to play a major role in future presidential elections through these new groups, which began to spring up during the summer. The parties raised a record total of \$495 million in soft money before the 2000 election, and it was spent on get-out-the-vote programs and television commercials that appeared to be issue advertisements but were actually used to assist candidates. This election cycle, with the ban looming, soft money fund-raising by the two parties has already totaled more than \$420 million and is likely to eclipse the 2000 record.

Senator John McCain, the Arizona Republican who was a co-author of the bill banning soft money donations, said today that he found the jockeying by the political parties to raise soft money "disgusting."

"We're going to fight them," Mr. McCain said in an interview from his home in Arizona. "We didn't fight for seven years to get this law passed in order to see people emasculate it. We'll fight them, and we'll fight them in the courts, and we'll fight them on the floors of Congress. And we'll do everything we can to make sure we have meaningful campaign finance reform in this country."

Larry Noble, the former general counsel of the Federal Election Commission and now executive director of the Center for Responsive Politics, said that both parties were preparing to violate "the spirit of the McCain-Feingold bill."

"There's going to be a very thin line between these so-called independent groups and the party committees," Mr. Noble said. "It's what everybody feared. Neither party wasted any time looking for ways to get around the soft-money ban. These groups are going to have to be watched closely."

Mr. Carmichael said that his organization intended to spend the

A bill's co-author says he will fight the parties' planned subversion of law.

large checks it receives on get-out-the-vote efforts and party registration programs in states where such spending is legal. He also disputed that Mr. McAuliffe set a specific fund-raising goal for his group.

Republican fund-raisers say that senior party officials have made it clear that the Republican Governors Association will be another primary avenue for raising soft money. To allow it to continue to be able to raise and spend soft money, the governors' group recently severed its ties with the Republican National Committee, said John G. Rowland, the Connecticut governor who is chairman of the group.

Mr. Rowland says he expects the association "to become more of a presence in the Republican Party." The group, which has raised and spent about \$20 million for this election, "will try to raise as much as we

can to be supportive of Republican candidates within the confines of the law." When asked if he had discussed future soft money fund-raising with Republican party leaders, Mr. Rowland responded, "Not really."

Similarly, the Democratic Governors Association, which has raised about \$9 million for this election, also plans an expanded role raising soft money once the new law takes effect.

B. J. Thornberry, the executive director of the association, said, "Governors are the ones who can still legally raise these funds." She said she expected to see "a lot of competition for soft dollars" from the scores of independent groups now being created specifically to raise such money.

Democrats remain far more reliant on soft money than Republicans: Through Oct. 16, about 61 percent of money raised by the national Democratic Party committees was soft money, compared to 43.4 percent of the money raised by the Republican committees.

At the Mayflower Hotel meeting on Oct. 15, party officials handed out a nine-page document on the goals of the Democratic State Party Organization. A copy of the document was obtained by The New York Times.

"This organization is being created in order to comply with the new campaign finance law," the document says. It goes on to say that the organization "would have the same legal status as a state party" and it "would not be legally affiliated with, controlled or financed by the Democratic National Committee."

McCain-Feingold prohibits any group "established, financed, maintained or controlled" by a national party from raising or spending soft money. But in June, the Federal Election Commission approved a loophole so that only actions and activities occurring after the election would be used in determining violations of this provision. Groups set up before Election Day, therefore, may not be subject to sanctions. That ruling, and others by the commission, have been challenged in court by sponsors of the law.

"In my view, the activities being planned are blatantly illegal and represent a conspiracy by the D.N.C. and the new sham group being created to massively evade the new law banning soft money," said Fred Wertheimer, president of Democracy 21 and a leading proponent of the McCain-Feingold law. "We will explore bringing every possible legal challenge we can to stop either political party from breaking the new law."

ROLL CALL

GOP Gets Generous With Soft Money

November 14, 2002

By John Bresnahan

In a frenzied scramble to get rid of their soft money before the Nov. 6 ban went into effect, the House and Senate GOP campaign committees gave away hundreds of thousands of dollars to charity, made swaps with state parties for hard dollars and pumped huge sums into state legislative races.

The National Republican Congressional Committee donated a combined \$126,000-plus to the Ronald Reagan Library, Betty Ford Clinic and a charity supported by first lady Laura Bush. It also gave \$325,000 to Oklahoma State University and another foundation favored by retiring Rep. Wes Watkins (R-Okla.), and dumped more than \$700,000 into an effort to prop up Illinois Republicans in state races, among other last-minute moves.

In addition, NRCC Chairman Tom Davis (Va.) steered large chunks of soft money back home. The Fairfax County Republican Party was the lucky recipient of \$250,000 for its new headquarters, a Prince William County charity got \$50,000, and Jeb Stuart High School in Falls Church received \$25,000 for its scholarship fund.

The Pennsylvania and Illinois Republican parties received \$150,000 and \$200,000, respectively, from the NRCC for new buildings. The North Carolina Republican Party, during a period from July to November, got more than \$540,000 for its headquarters.

All this comes on top of the \$1 million the NRCC gave to the Leadership Forum, a new 527 organization run by a former top aide to incoming House Majority Leader Tom DeLay (R-Texas). The group will raise funds to help defend GOP lawmakers with issue ads during the 2004 elections.

Most of these donations came from the NRCC's building fund. Such accounts are supposed to pay for building upkeep for the NRCC and are limited in how they can be used. The NRCC raised more than \$4 million for the building fund this cycle.

Senate Republicans, for their part, used soft money to pay off the \$2.8 million mortgage on their headquarters, as well as other bills owed by the National Republican Senatorial Committee, leaving the organization debt-free heading into the next cycle. Normally, campaign committees carry several millions of dollars from one cycle to the next.

The NRSC also swapped \$2.8 million in soft money with the Florida Republican Party for hard money just days before the election. That exchange - plus the roughly \$750,000 traded with the Indiana, Kentucky and Missouri Republican parties over the final month of the campaign - gave the committee some hard money to use in key races. More importantly, it also provides the NRSC with the flexibility to cover its expenses as the two parties struggle to adjust to the new fundraising landscape.

The NRSC, like the NRCC, spent hundreds of thousands of dollars on new computers and other technology upgrades as well, according to Republican insiders.

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And on top of that, the NRSC donated \$225,000 to a charity created by former Sen. Connie Mack (R-Fla.). Mitch Bainwol, the NRSC's executive director, was a top Mack aide before the Senator retired from Congress in 2000.

Like House Republicans, NRSC officials set up their own nonprofit organization to run issue ads on behalf of Senate GOP candidates and incumbents in 2004. Unlike their House counterparts, however, the NRSC gave no money to the new group.

Neither the NRSC nor NRCC would comment on their soft-money activities. Officials at both committees noted that all their actions were perfectly legal and will be detailed in future disclosure reports filed with the Federal Election Commission.

Democrats were stunned to learn that both the NRSC and NRCC had money left to burn at the end of what was the most expensive midterm elections in history.

"That's not a problem we were faced with," joked a senior House Democratic aide. "We were scraping the bottom of the barrel for every dime we could get."

Senate Democrats, who actually outraised their GOP counterparts, paid off the \$3.2 million dollar tab for their new campaign headquarters building across from the Supreme Court, in addition to covering a \$3 million loan taken out by the Democratic Senatorial Campaign Committee.

But the DSCC is also facing a hard-money debt of roughly \$5.7 million heading into next year, according to Democratic sources. With Democrats having to defend 19 seats in the 2004 cycle, versus only 15 for Republicans, the DSCC is already facing a tremendous financial challenge. The DSCC did not give any money to an outside entity created to raise and spend soft money.

The Democratic Congressional Campaign Committee did not have anywhere near the financial resources of the NRCC, although it did steer large amounts of soft money into key states in the final stretch of the campaign.

For instance, during a five-week period beginning in early September, the DCCC sent more than \$2.6 million to the Texas Democratic Party. Roughly \$1.5 million of that total went to helping elect Democrat Chris Bell, who replaced departing Rep. Ken Bentsen (D). The rest was used to assist endangered Democratic incumbents in Texas like Reps. Chet Edwards and Charlie Stenholm. Most of the funds were soft money raised through the DCCC by Rep. Martin Frost.

The DCCC also used millions in soft money to help oust GOP Reps. Felix Grucci (N.Y.) and Connie Morella (Md.), as well as to help boost their candidates in several competitive House races in Iowa.

But the DCCC did not give any money to charity or fund a 527 or other nonprofit organization, according to Howard Wolfson, the committee's executive director. "We spent all our soft money on issue ads and [get-out-the-vote] activities," he said.

The NRCC, on the other hand, gave \$50,000 to the Reagan Library and another \$25,000 to the Betty Ford clinic. An organization called Reach Out and Read, which Laura Bush has repeatedly praised, got \$51,878.

Another \$15,000 was given on Sept. 30 to the Ex-WorldCom Employee Assistance Fund in Dunwoody, Ga. The DCCC has also donated to that fund.

Illinois Republicans were another favored recipient of the GOP largess. According to one senior Republican strategist, as much as \$3 million was put into Prairie State legislative races by the NRCC, Speaker Dennis Hastert (R-Ill.) and the Republican National Committee over the past several months.

Party leaders, largely at Hastert's urging, were trying to stem a Democratic landslide in that key Midwestern state. Rep. Rod Blagojevich (D) won his gubernatorial contest over a Hastert ally, Attorney General Jim Ryan, and Democratic Sen. Dick Durbin cruised to an easy re-election victory.

With Hastert pulling the strings, and Illinois having no restrictions on soft money, the NRCC handed out between \$700,000 and \$800,000 to dozens of Illinois lawmakers in September and October. The NRCC also gave \$50,000 to Hastert's soft-money leadership PAC, the KOMPAC State Fund. That fund is now closed.

In addition to the NRCC donation, Hastert gave another roughly \$750,000 from the KOMPAC State Fund to Illinois state candidates. Hastert also put another \$100,000 in hard money from his re-election campaign into state races as well, and the RNC kicked in hundreds of thousands of dollars.

The NRCC donation of \$325,000 to the Oklahoma State University Foundation and the Oklahoma Foundation for Career and Technology Education was part of a swap with Watkins, who is retiring.

Watkins was sitting on more than \$600,000 in hard money, which was coveted by NRCC officials. Those hard dollars could be used directly to help out candidates and incumbents, unlike soft money.

Watkins gave the NRCC \$275,000 in hard money, and the NRCC then gave \$325,000 to OSU and the other foundation on September 12.

Paul Kane contributed to this report.

GOP Group Joins Soft-Money Fray

By Chris Cillizza
ROLL CALL STAFF

A not-for-profit organization with strong Republican ties has re-formed in recent months with several top GOP strategists at the helm in an effort to counter the proliferation of soft-money groups on the Democratic side.

The group — Progress for America — is a 501(c)(4) membership committee that was begun in 2001 by Tony Feather, a longtime Republican consultant with strong ties to President Bush. Feather recently cut his ties to the group, however, and has been replaced atop the organization by Chris LaCivita, political director of the National Republican Senatorial Committee in the 2002 cycle and the top political strategist for NRSC Chairman George Allen (Va.).

Republican lawyer Ben Ginsberg, who specializes in campaign finance and election law, is also closely affiliated with the committee, according to well-placed sources.

Neither LaCivita nor Ginsberg returned calls for comment.

The group's organizational structure is similar to that of the National Rifle Association. As a 501(c)(4) membership committee, it can expressly advocate the election or defeat of candidates to its membership through phone calls, direct mail and other modes of voter contact. The organization is currently undertaking a major effort to increase its membership base nationwide, according to sources familiar with its actions.

PFA can also sponsor some issue-advocacy advertising in political campaigns, though it cannot directly advocate for or against a candidate nor spend more than half of its budget on these type of ads.

In the Mississippi gubernatorial race, PFA expended roughly \$500,000 on two commercials that attacked state Sen. Barbara Blackburn — the Democratic Party's nominee for

lieutenant governor — for her record on taxes and crime.

Republican Lt. Gov. Amy Tuck, a former Democrat, won a crushing 61 percent to 37 percent victory over Blackburn.

Prior to 2003, the group ran issue ads in Florida advocating for Bush's "No Child Left Behind" education act. It also did some grassroots organizing to protest Senate Democrats' filibuster of several Bush judicial nominees.

The group's tax return for 2002, the most recent disclosure available, showed that it reported \$413,295 in revenue.

Disclosure requirements for nonprofits and tax-exempt organizations are far less detailed than for groups registered as political organizations, meaning that nonprofits don't have to specify exactly how they spent their money but can instead report broad categories of expenditures.

According to the group's 2002 return, the largest program spending was \$192,434 for state/regional consultants communicating with the public on trade policy, energy plans, education reform and tax cuts. It also spent \$101,417 for a telephone program communicating information on trade authority policy.

The primary goal of PFA in the 2004 elections is to function as a massive get-out-the-vote tool fueled by soft-money donations, which can be accepted in unlimited sums.

Prior to this cycle, the vast majority of GOTV activity had been handled by the national parties, but passage of the Bipartisan Campaign Reform Act in 2002 banned national party committees from raising and spending soft money.

Into this void have stepped a number of Democratic groups hoping to capture the soft money previously allocated to the Democratic National Committee.

They are led by America Coming Together, which is chaired by EMILY's List President Ellen Malcolm and run by former AFL-CIO Political Director Steve Rosenthal, and America Votes, which is run by Cecile Richards, a former top aide to House Minority Leader Nancy Pelosi (D-Calif.).

Billionaire financier George Soros gave \$10 million to ACT earlier in the year. The group has budgeted \$75 million to voter mobilization efforts in the 2004 campaign. Soros recently gave an additional \$5 million personal donation to MoveOn.org, a progressive, Internet-based activist organization.

PFA plans to counter the influence wielded by Democratic soft-money donors such as Soros by offering deep-pocketed Republicans an avenue of their own to express their political viewpoints.

It joins Americans for a Better Country and the Leadership Forum — both 527s — on the Republican side of the new soft-money wars.

The Leadership Forum was started by former Rep. Bill Paxon (N.Y.) and Susan Hirschmann, a former chief of staff to House Majority Leader Tom DeLay (Texas) and is aimed at raising soft money for House campaigns.

ABC has been linked to George Terwilliger, one of the attorneys for Bush during the 2000 Florida recount, as well as GOP consultants Craig Shirley and Frank Donatelli.

House Administration Chairman Bob Ney (R-Ohio) held a hearing last Thursday aimed at exploring whether these groups were purposely attempting to evade BCRA.

Top Democratic officials at a variety of soft-money organizations refused to testify, saying Ney's request amounted to little more than a partisan witch hunt.

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ROLL CALL

Amazon Putting Campaign Cash a Click Away

January 12, 2004

By Brody Mullins,

Roll Call Staff

One month after the Supreme Court upheld a ban on massive political contributions from corporate America, online retailer Amazon.com plans to become the first U.S. business to unveil a way for the general public to funnel cash to presidential candidates.

Amazon will create a link on its Web site this week that will permit customers to donate directly to presidential campaigns when purchasing books written by or about the candidates on the company's virtual bookstore.

Since Amazon's customers — not the company itself — would make the contributions, the plan would not violate the new campaign finance law, according to election lawyers.

Aides from several White House contenders said Amazon worked out the deal with each of the presidential campaigns over the past few weeks with the help of the company's campaign finance lawyer, Jan Baran of Wiley, Rein & Fielding.

Amazon hopes to roll out the plan on Thursday, just days before the Iowa caucuses.

All costs associated with the one-of-its-kind plan — from establishing the link to processing credit card receipts — will be covered by the presidential campaigns.

Because corporations are prevented from contributing to presidential campaigns, Amazon is prohibited from picking up any costs associated with the service.

"If Amazon used corporate money to fund any aspect of this it would be a problem," said Bobby Burchfield, an election lawyer with Covington & Burlington. "But if the respective campaign is paying for it, it would be OK."

Not all of the Democratic campaigns are pleased with Amazon's plan. Because the online retailer is unveiling the plan so close to the start of the primary season, there is little chance that any candidate will get an infusion of desperately needed campaign cash.

Still, the unique plan could open up yet another avenue for political donations in the post-campaign finance reform era.

Amazon's move also could encourage other businesses to begin rolling out their own fundraising strategies for the 2004 elections.

Congressional approval of legislation to stem the tide of large corporate contributions had a chilling effect on corporate contributions because risk-adverse companies were wary of becoming poster children for campaign finance abuse.

But now that the Supreme Court has ruled, Republican and Democratic strategists say that businesses are finally starting to open up their checkbooks.

"Businesses are slowly starting to step forward," said Susan Hirschmann, a Republican lobbyist who heads a fundraising organization called the Leadership Forum that is seeking corporate contributions to support GOP candidates for Congress.

"With the Supreme Court ruling, people understand that [the Bipartisan Campaign Reform Act] is the law of the land and they are starting to figure out how to play while staying in compliance with the law," Hirschmann said.

As a result, many Republican strategists and campaign finance lawyers believe that the new election law will do little to reduce the amount of money in politics.

Instead, they say, corporations and interest groups will find new ways of filtering contributions into campaigns, such as through the Leadership Forum and other so-called 527 fundraising organizations.

"I don't think there will be one less penny spent this time than last time around, it will just be much harder to track," Burchfield said.

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Democratic Senate Majority Fund Slows Activity As Group Awaits Decision in BCRA Court Case

By Chris Cillizza
ROLL CALL STAFF

A political action committee created as a fundraising conduit for Senate Democrats has significantly slowed its operations as it awaits the pending Supreme Court ruling on the Bipartisan Campaign Reform Act.

The Democratic Senate Majority Fund is currently experiencing "a period of lower activity," said Marc Farinella, a campaign consultant to the group. He rejected the idea that the slowdown was an intermediate step to shuttering the group altogether.

"Presuming the court doesn't throw out

McCain-Feingold, this is temporary," said Farinella, referring to the two Senators who sponsored the campaign finance reform legislation.

The Supreme Court heard four hours of arguments last week on the constitutionality of the new law, and most legal experts expect a decision by the end of the year so that any changes can be implemented for the 2004 elections.

Under the law, national party committees are banned from accepting or spending so-called soft money, which can be raised in unlimited chunks from corporations, labor

unions and individuals.

Soon after President Bush signed the bill, several outside groups were formed in hopes of becoming the unofficial recipients of the soft dollars that had been previously allocated to the committees.

On the Democratic side, the DSMF was joined by the New House PAC, which was founded by former Democratic Congressional Campaign Committee Executive Director Howard Wolfson and former DCCC Finance Director Jonathan Mantz.

Each group has a hard-money political action committee as well as a 527 arm, which

collects soft-dollar contributions. Members can help raise money for the PAC but can in no way be involved in the 527.

There are also a number of other Democratic groups seeking to fill the soft-money void, including the labor-oriented Partnership for America's Families, Americans Coming Together and the John Podesta-led American Majority Institute.

Former New York Republican Rep. Bill Paxon and fellow GOP lobbyist Susan Hirschmann created the Leadership Forum, a 527 group; three lawyers with close ties to Republican uber-attorney Ben Ginsberg formed the National Committee for a Responsible Senate, which files as a 501(c)(6) organization, allowing it to collect unlimited contributions without revealing donors.

In the first six months of the year, Democrats were significantly more aggressive in outreach and fundraising than their Republican counterparts.

The DSMF raised \$105,000 in hard dollars in the first six months of 2003 and an additional \$35,000 in soft money.

The soft-money component received a \$15,000 donation from Cyber City Care, a company based in Manassquan, N.J., \$10,000 from Manhattan PSO and \$5,000 each from the International Brotherhood of Electrical Workers and attorney Thomas Green.

"We are still raising money but there is a lower level of activity," Farinella said.

The New House PAC raised no soft dollars, but brought in \$101,000 in hard money.

Wolfson said his group continues to aggressively raise money and reach out to Members and interest groups despite the looming court decision.

"We are moving forward, raising money and meeting with donors," Wolfson said.

The structure of the two entities differ, however, making the DSMF a more cumbersome organization to fund on a day-to-day basis.

Both Farinella and Halle Mayes work for the group full-time and draw salaries, while both Mantz and Wolfson are part-time employees and have not received any compensation from the venture so far.

As a result, the DSMF doled out \$63,000 from Jan. 1 to June 30 with \$39,000 of that going to Farinella and his firm, while the New House PAC spent just \$36,000.

Farinella confirmed that the staff had been reduced by one person, but not because of any financial struggles. Stephen Neumann, who received \$1,700 in salary in the organization's July quarterly report, left for law school this fall.

Farinella added that his firm has taken on several other clients in order to help defray the overhead costs of the DSMF, a move he said had always been planned.

Reports filed with the Internal Revenue Service indicate that the Leadership Forum, which returned a \$1 million soft-money contribution from the National Republican Congressional Committee in late 2002, had not raised or spent any money through June 30.

Sources familiar with the Forum said it has been aggressively raising money over the past several months, a fact that would be reflected in its year-end report.

The NCRS on the other hand remains largely unformed as it has acquired no staff nor done any fundraising so far this year. Some GOP-ers close to the group are skeptical that it will ever get off the ground given donor concerns about running afoul of BCRA.

Leaders Fill PAC Coffers

By Chris Cillizza
ROLL CALL STAFF

Two Democratic fundraising organizations formed earlier this year to collect hard- and soft-money donations for House and Senate campaigns will hold their first joint fundraiser of the cycle Nov. 5.

The event, which will benefit the Democratic Senate Majority Fund and the New House PAC, will feature at least 60 Members, including a majority of the leadership in both the House and Senate. It will be held at the Phoenix Park Hotel.

Senate Minority Leader Tom Daschle (S.D.), Minority Whip

Harry Reid (Nev.) and Democratic Senatorial Campaign Committee Chairman Jon Corzine (N.J.) all will attend.

Sens. Patrick Leahy (Vt.), Jeff Bingaman (N.M.), John Breaux (La.), Byron Dorgan (N.D.), Tom Carper (Del.) and Bill Nelson (Fla.) will also serve as chairmen. Sen. Hillary Rodham Clinton (N.Y.), the only Member to donate to both committees in the first six months of the year, is not listed on the invite.

Among House leadership, Minority Leader Nancy Pelosi (Calif.), Minority Whip Steny Hoyer (Md.), Caucus Chairman Bob Menendez (N.J.) and Democratic Congressional Campaign Committee head Robert Matsui (Calif.) will be chairmen, as will South Carolina Reps. James Clyburn and John Spratt.

The other 45 House Members will be event hosts.

Chairmen are required to make a \$5,000 donation, hosts \$2,500 and guests \$1,500.

The two groups have opened a joint fundraising committee for the event — DSMF/NHP 2003 — that will help pay the overhead costs and divvy up the final take.

"We are pleased to have such strong Member support for our hard-money efforts," said Howard Wolfson, who along with former Democratic Congressional Campaign Committee Finance Director Jonathan Mantz founded the New House PAC. Marc Farinella, a former campaign manager for former Sen. Jean Carnahan (Mo.), is the executive director of the DSMF.

Neither Wolfson nor Farinella would provide an estimate of the total they hoped to raise, but quick calculations based on their current Member support show that they have commitments of \$187,500.

Each group has both a hard-money political action committee and a 527 apparatus aimed at collecting unlimited soft-money contributions that the national party committees are banned from accepting under the Bipartisan Campaign Reform Act. The Supreme Court is mulling an appeal to the law.

The joint fundraiser is the first major foray for either group since this spring. Each held an April event with Members and the DSMF

also held a May gathering, but neither did significant fundraising over the summer and early fall.

"Summer is over and people are starting to think about this stuff a little more," said Farinella, who admitted that his group remains in something of a slow period as they await a ruling from the court.

The DSMF brought in \$105,000 in the first six months of the year for its hard-dollar arm. Eight Democratic Senators gave \$35,000 to the DSMF between January and June; Sens. Jeff Bingaman (N.M.), Edward Kennedy (Mass.), Tom Carper (Del.), Clinton, Corzine and Dick Durbin (Ill.) pitched in \$5,000 apiece; and Daschle and Sen. Blanche Lincoln (Ark.) each gave \$2,500. Its 527 raised \$35,000 from Jan. 1 to June 30.

The New House PAC focused solely on raising hard dollars, raking in \$101,000. Pelosi gave \$5,000 to the committee from her personal campaign account and her leadership PAC.

The November fundraiser signals that Democrats continue to be more aggressive than Republicans in their efforts to collect soft money that had previously been directed to the parties.

House Majority Leader Tom DeLay's (R-Texas) former Chief of Staff Susan Hirschmann and former Rep. Bill Paxton (N.Y.) formed the Leadership Forum in late 2002 but through the first six months of 2003 had not raised any money.

Hirschmann has said the forum is now actively fundraising, and their efforts will be reflected in the 527's year-end report. In late 2002, the forum returned a \$1 million soft-money donation from the National Republican Congressional Committee.

Senate Republican operatives formed the National Committee for a Responsible Senate in 2002, but there has been no activity on its behalf this year. Some familiar with the NCRS believe it will never get off the ground.

**Political Organization
Notice of Section 527 Status**

OMB No. 1545-1603

Part I General Information

1 Name of organization

The Leadership Forum

Employer identification number

81 - 0576274

2 Mailing address (P.O. box or number, street, and room or suite number)

4123 S. 36th Street B2

City or town, state, and ZIP code

Arlington, VA 22206

3 Check applicable box: ☐ Initial notice ☐ Amended notice ☐ Final notice

4a Date established

4b Date of material change

5 E-mail address of organization

no@email.com

6a Name of custodian of records

J. Randolph Evans

Custodian's address

1201 West Peachtree St. Suite 2800

Atlanta, GA 30309

7a Name of contact person

J. Randolph Evans

Contact person's address

1201 West Peachtree St. Suite 2800

Atlanta, GA 30309

8 Business address of organization (if different from mailing address shown above). Number, street, and room or suite number

4123 S. 36th Street B2

City or town, state, and ZIP code

Arlington, VA 22206

9a Election authority

NONE

9b Election authority identification number

Part II Notification of Claim of Exemption From Filing Certain Forms (see instructions)

10a Is this organization claiming exemption from filing Form 8872, Political Organization Report of Contributions and Expenditures, as a qualified state or local political organization? Yes ☐ No ☐

10b If 'Yes,' list the state where the organization files reports:

11 Is this organization claiming exemption from filing Form 990 (or 990-EZ), Return of Organization Exempt from Income Tax, as a caucus or associations of state or local officials? Yes ☐ No ☐

Part III Purpose

12 Describe the purpose of the organization

To engage in nonfederal political activities on state and local levels and to engage in dialogue on issues of importance to all Americans.

Part IV List of All Related Entities (see instructions)**13 Check if the organization has no related entities.**

14a Name of related entity	14b Relationship	14c Address
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Part V List of All Officers, Directors, and Highly Compensated Employees (see instructions)

15a Name	15b Title	15c Address
Susan B. Hirschmann	President	1155 21st Street, NW Suite 300 Washington, DC 20036
L. William Paxon	Vice President	1333 New Hampshire Avenue, NW Washington, DC 20036
Julie Wadler	Secretary-Treasurer	104 Hume Avenue Alexandria, VA 22301

Under penalties of perjury, I declare that the organization named in Part I is to be treated as a tax-exempt organization described in section 527 of the Internal Revenue Code, and that I have examined this notice, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. I further declare that I am the official authorized to sign this report, and I am signing by entering my name below.

Susan B. Hirschmann

10/28/2002

**Sign
Here**

Name of authorized official

Date

26044152559